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09/21/94 at 03:04PM DWIGHT B. BROCK, CLERK

REC FEE 209.50

# DECLARATION OF CONDOMINIUM
# OF
# THE VILLAGES AT EMERALD LAKES FIVE, A CONDOMINIUM

MADE this 22nd day of August, 1994, by The Villages at Emerald Lakes, Inc., a Florida Corporation, hereinafter called the "Developer", for itself and its successors, grantees and assigns.

WHEREIN the Developer makes the following declarations:

1. THE LAND. The Developer owns title in fee simple to certain real property located in Collier County, Florida, as more particularly described in Exhibit "A" attached hereto (the "Land"). Developer acquired title by Warranty Deed dated August 22, 1994, and recorded in O.R. Book 1987, Page 458, of the Public Records of Collier County, Florida.

2. SUBMISSION STATEMENT. The Developer hereby submits the property as described on Exhibit "A" and all Improvements erected thereon, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, located thereon and intended for use in connection therewith, to the condominium form of ownership and use in the manner provided by the Florida Condominium Act as it exists on the date hereof, excluding therefrom all public utility installations, cable television lines, water and sewer lines and other similar equipment owned by the utility or entity furnishing services to the Condominium.

This Condominium and this Declaration shall be subject to the Master Declaration of General Covenants, Conditions and Restrictions for Emerald Lakes of Naples, and the Articles and By-Laws of Emerald Lakes Resident's Association, Inc., all as may be amended from time to time.

3. NAME. The name by which this Condominium shall be identified is The Villages at Emerald Lakes Five, A CONDOMINIUM, (the "Condominium"), and its address is 2250 Tennis Court Lane, Naples, Florida 33942.

3.1 Applicability Of Declaration Of Condominium. The covenants and restrictions contained in this Declaration shall run with the land and be binding upon and inure to the benefit of all present and future owners of Condominium Units. The acquisition of title to a Unit or any interest in the Condominium Property, or the lease, occupancy, or use of any portion of the Condominium Property, shall constitute an acceptance and ratification of all provisions of this Declaration and an agreement to be bound by its terms.

3.2 Construction. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan of condominium ownership.

4. DEFINITIONS. The terms used in this Declaration and its exhibits shall have the meanings stated below and in Chapter 718, Florida Statutes, unless the context otherwise requires.

4.1 "Assessment" means a share of the funds required for the payment of Common Expenses, which from time to time is assessed against a Unit or the Owner of a Unit.

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CONDOMINIUM EXHIBITS FILED IN CONDOMINIUM BOOK 41, PAGES 13-14,
ON SEPTEMBER 21, 1994, IN THE PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA.
DWIGHT E. BROCK, CLERK OF CIRCUIT COURTS, BY: RHONDA LETZ, D.C.

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4.2 "Association Property" means all real or personal property owned by the Association or leased by the Association and not part of the Common Elements.

4.3 "Association" means a Florida Corporation, not-for-profit, which is the entity responsible for the operation of the Condominium.

4.4 "Board Of Directors" or "Board" means the representative body which is responsible for the administration of the Association, and is the same body referred to in the Condominium Act as the "Board of Administration".

4.5 "By-Laws" means the By-Laws of the Association.

4.6 "Common Elements" means the portions of the Condominium Property not included in the Units as defined in Florida Statute 718.108, including the land, all parts of the improvements which are not included within the Units, all easements, and installments for the furnishing of services to more than one Unit or to the Common Elements, an easement for support in every portion of a Unit which contributes to the support of a building and any other parts of the Condominium Property designated as Common Elements in the Declaration of Condominium or any recorded exhibits thereto.

4.7 "Common Expenses" means all expenses and assessments properly incurred by the Association.

4.8 "Common Surplus" means the excess of all receipts of the Condominium Association collected on behalf of the Condominium, including, but not limited to assessments, rents, profits and revenues on account of the Common Elements over the amount of the Common Expenses.

4.9 "Condominium Documents" means and includes this Declaration of Condominium for The Villages at Emerald Lakes Five, A CONDOMINIUM, and all recorded exhibits thereto, as amended from time to time.

4.10 "Condominium Property" means the lands and personal property subject to the condominium form of ownership, whether or not contiguous and all improvements thereon and all easements and rights appurtenant thereto.

4.11 "Declarant" or "Developer" shall mean and refer to The Villages at Emerald Lakes, Inc., a Florida Corporation, its successors and assigns. It shall not include any person or entity who purchases a Condominium Unit from The Villages at Emerald Lakes, Inc. unless such purchaser is specifically assigned some or all rights of The Villages at Emerald Lakes, Inc. by a separate recorded instrument.

4.12 "Family" means two or more persons, each of whom is related to each of the others by blood, marriage, or adoption, or not more than two persons not so related who reside together as a single housekeeping unit.



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4.13 "Fixtures" mean those items of tangible personal property which by being physically annexed or constructively affixed to the Unit have become accessory to it and are part and parcel of it, including, but not limited to interior partitions, walls, appliances which have been built in or permanently affixed, and plumbing fixtures. Fixtures do not include wall, floor or ceiling coverings.

4.14 "Guest" means any person who is physically present in, or occupies a Unit at the invitation of the owner without the payment of consideration or rent.

4.15 "Institutional Mortgagee" shall mean and refer to the holder of a first mortgage against a Unit which holder is a bank, savings and loan association, real estate or mortgage investment trust, pension or profit sharing trust, the Federal Housing Administration, the Veterans Administration, any agency of the United States of America; or any entity recognized in the community as an institutional lender. The mortgage may be placed through and closed in the name of a mortgage broker.

4.16 "Lease" means the grant by a Unit Owner of a temporary right of use of the Owner's Unit for a valuable consideration.

4.17 "Limited Common Elements" means those portions of the Common Elements which are reserved for the use of a particular Unit or Units to the exclusion of other Units.

4.18 "Master Association" shall mean and refer to The Emerald Lakes Resident's Association, Inc.

4.19 "Master Declaration" shall mean and refer to the Master Declaration of Covenants, Conditions and Restrictions for Emerald Lakes of Naples recorded in O.R. Book 1399, Page 1742, of the Public Records of Collier County, Florida and any amendments thereto.

4.20 "Member" shall mean and refer to all those Owners who are members of the Association.

4.21 "Occupant" or "Occupy", when used in connection with a Unit, means any person who is physically present in a Unit on two or more consecutive days, including staying overnight.

4.22 "Primary Occupant" shall mean the natural person approved for occupancy when title to the Unit is held in the name of a trustee or a corporation or other entity which is not a natural person.

4.23 "Survey and Architectural Exhibits" means the Surveyor's Certificate, the legal descriptions of and survey of the Land; graphic descriptions of improvements and plot plan thereof; and floor plans of each type of Unit on the Land, all of which are attached as a part of Exhibit "B" to the Declaration of Condominium of The Villages of Emerald Lakes Five, A CONDOMINIUM, and are incorporated therein by reference, including, without limitation, any amendments thereof.



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4.24 "Unit Owner" or "Owner" means the record owner of a fee simple interest in a Unit, except that for purposes of interpreting use restrictions related to Units, in cases where a primary occupant has been designated for a Unit because of its ownership, the word "owner" refers to the primary occupant and not the record owner. The term "Owner" shall not mean or refer to any mortgagee unless and until any such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

4.25 "Unit" or "Condominium Unit" shall mean and refer to a Condominium Unit as that term is used in the Declaration of Condominium of The Villages at Emerald Lakes Five, A CONDOMINIUM, to be recorded in the Public Records of Collier County, Florida, which Unit shall be subject to exclusive ownership.

5. SURVEY, PLOT PLAN, GRAPHIC DESCRIPTION AND IDENTITY OF UNITS.

5.1 Survey and Architectural Exhibits. The Survey Exhibits attached hereto and made a part of this Declaration include the following in Exhibit "B": plot plan, survey, graphic description, unit floor plans and legal description of the Condominium.

All of the above are hereinafter referred to as the "Survey and Architectural Exhibits".

Exhibit "B" is in sufficient detail to identify the location, dimensions and size of each Unit and the location of the Common Elements and Limited Common Elements. Accordingly, the Condominium as represented in the Survey and Architectural Exhibits has been certified by a Florida Registered Land Surveyor indicating statutory compliance with Section 718.104(4)(e), Florida Statutes.

5.2 Unit Identification. The Condominium Property consists of the land described in Exhibits "A" and "B" attached hereto that have been made a part of this Condominium from time to time, together with the buildings and other improvements constructed thereon, which includes the Units, Common Elements and Limited Common Elements. Exhibit "B" to this Declaration sets forth the building floor plans for the different types of Units in the Condominium. Each of the buildings in the Condominium is designated by an identifying letter. In each of the types of buildings there are Units, each one of which is declared to be a Unit, and each Unit is designated by a three-digit identifying number as shown on Exhibit "B".

The aforesaid letters of each building, together with the three-digit identifying number, shall legally identify that Unit. Each Unit, together with all appurtenances thereto, shall, for all purposes, constitute a separate parcel of real property which may be owned in fee simple and which may be conveyed, transferred or encumbered in the same manner as any other parcel of real property, subject only to the provisions of the Condominium Documents and easements, restrictions, reservations and limitations of record.

5.3 Unit Boundaries. Each Unit shall include that part of the building that lies within the following boundaries:



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A. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to their planar intersections with the perimetrical boundaries.

(1) Upper Boundaries. The upper boundary shall be the unfinished lower surface of the ceiling.

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

B. Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished exterior surface of the plasterboard walls bounding the Unit, extended to their planar intersections with each other and with the upper and lower boundaries.

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

D. Additional Items Included with Units. All of the following items are included with each Unit (some of which items may not necessarily be provided to Unit Owners by the Developer) if such items are wholly or partially located within a Unit and designed and installed to serve only such Unit:

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

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

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

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

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

(6) All floor and wall covering, including, without limitation, carpeting, tiling, wallpaper and paint; and



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

E. Exceptions. As to matters not specifically covered in this Section 5.3, or in any case of conflict or ambiguity, the survey and plot plans set forth on Exhibit "B" hereto shall control in determining the boundaries of a Unit.

6. CONDOMINIUM UNITS; APPURTENANCES AND USE; RECREATION FACILITIES.

6.1 Ownership of Unit. Each Unit, together with space within it, and together with all appurtenances thereto, for all purposes, constitute a separate parcel of real property, which may be owned in fee simple and which may be conveyed, transferred and encumbered only as provided in and subject to the provisions of this Declaration and applicable laws.

6.2 Appurtenances to Unit. The ownership of each Unit shall include, and there shall pass as appurtenances thereto, whether or not separately described, all of the right, title and interest of a Unit Owner in the Condominium property which shall include but not be limited to the following:

A. An undivided share in the land and other Common Elements as defined in Chapter 718.108 of the Florida Statutes and an undivided share in the Common Surplus. The Unit Owner's individual share in the Common Elements, Common Expenses and Surplus shall be 1/40.

B. Membership and voting rights in the Association, which shall be acquired and exercised pursuant to the Articles of Incorporation and By-Laws of the Association, attached hereto as Exhibits "C" and "D", respectively.

C. The exclusive right to use the Limited Common Elements reserved for the Unit or Units, and the right to use the Common Elements.

D. Other appurtenances as may be provided in this Declaration and its exhibits.

6.3 Use and Possession. A Unit Owner is entitled to exclusive use and possession of his Unit subject only to the Association's right of access provided in the Condominium Act. He shall be entitled to use the Common Elements in accordance with the purposes for which they are intended, but such use may not hinder or encroach upon the lawful rights of other Unit Owners or other persons having rights to use the Condominium Property. No Unit may be divided or any fractional portion sold or otherwise transferred. The use of the Units, Common Elements and Limited Common Elements shall be governed by the Condominium Documents and by the rules and regulations adopted by the Association, through its Board of Directors, in the manner set forth in the By-Laws.

6.4 Recreational Facilities. There are no Recreational Facilities in this Condominium. All Recreational Facilities are located in the Master Association property.



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7. EASEMENTS.

7.1 Easements. Each of the following easements and easement rights are reserved through the Condominium Property and is a covenant running with the land of the Condominium, and notwithstanding any of the other provisions of this Declaration, may not be revoked and shall survive the exclusion of any of the lands of the Condominium from the Condominium.

A. Utilities. The Association, on its behalf and on behalf of all Unit Owners, shall have the right to grant such electric, gas, or other utility or service or other easements, or relocate any existing easements, or drainage facilities, in any portion of the Condominium Property, and to grant access easements or relocate any existing access easements in any portion of the Condominium Property, as the Association shall deem necessary or desirable for the proper operation and maintenance of the Common Elements or condominium buildings, or any portion thereof, or for the general health or welfare of the Unit Owners, or for the purpose of carrying out any provisions of this Declaration or otherwise. Such easements or the relocation of existing easements may not prevent or unreasonably interfere with the reasonable use of the Units for their intended purposes. The Association, on behalf of itself and all Unit Owners, shall also have the right to transfer title to utility-related equipment, facilities or material to any public utility company or governmental agency which is assuming the obligation to maintain such equipment, facilities or material. In connection with the foregoing, bills of sale may be granted for items of personal property owned or governed by the Association. Furthermore, the Association shall have the authority to take any other action, on behalf of itself and all Unit Owners, to satisfy the requirements of any public utility company or governmental agency to which any such utility-related equipment, facilities or material are to be so transferred.

B. Encroachments. In the event that any Unit shall encroach upon any of the Common Elements or upon any other Unit for any reason other than the intentional act of the Unit Owner, or in the event any Common Element shall encroach upon any Unit, then an easement shall exist to the extent of that encroachment for so long as the encroachment shall exist.

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



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D. Structural Supports. Each Unit shall have an easement for structural support over every other Unit and portion of the Common Elements supporting such Unit, and each portion of the Common Elements shall have an easement for support over all Units and all portions of the Common Elements supporting such portion of the Common Elements.

7.2 Restraint Upon Separation and Partition.

A. The undivided share in the Common Elements appurtenant to a Unit shall not be separated from the Unit and shall pass with the title to the Unit, whether or not separately described. No legal action for partition of the Common Elements shall be permitted.

B. The shares in the funds and assets of the Association cannot be assigned, pledged or transferred in any manner except as an appurtenance to the Units.

8. LIMITED COMMON ELEMENTS.

8.1 Description of Limited Common Elements. Certain Common Elements have been designated as Limited Common Elements, reserved for the use of a particular Unit or Units, to the exclusion of other Units. The Limited Common Elements and the Units to which their use has been designated are as described herein and as further identified on the attached Survey and Architectural Exhibits. The following Common Elements are hereby designated as Limited Common Elements:

A. Parking Spaces. There have been designated on the Survey and Architectural Exhibits certain parking spaces as Limited Common Elements. These parking spaces will be initially assigned to the exclusive use of specific Units by the Developer. Each Unit shall always have the exclusive use of one (1) parking space.

B. Air Conditioning and Heating Equipment. All equipment, fixtures and installations located outside of a Unit, which furnish air conditioning or heating exclusively to that Unit, shall be Limited Common Elements, and shall be maintained, repaired and replaced solely at the expense of the owner of the Unit.

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

8.2 Exclusive Use. The exclusive use of a Limited Common Element is appurtenant to the Unit or Units to which it is designated or assigned. The right to such use shall pass with the Unit on transfer, whether or not separately described, and cannot be separated from it.



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9. ASSOCIATION. The operation of the Condominium shall be by The Villages at Emerald Lakes Five Condominium Association, Inc., a Florida Corporation, not-for-profit, which shall perform its function pursuant to the following:

9.1 Articles of Incorporation. A copy of the Articles of Incorporation of the Association is attached as Exhibit "C".

9.2 By-Laws. The By-Laws of the Association shall be the By-Laws attached as Exhibit "D".

9.3 Delegation of Management. The Association may contract for the management and maintenance of the Condominium Property and authorize a management agent to assist the Association in carrying out its powers and duties by performing such functions as the submission of proposals, collection of assessments, preparation of records, enforcement of rules and maintenance, repair and replacement of the Common Elements with funds made available by the Association for such purposes. The Association and its officers shall, however, retain at all times the powers and duties provided in the Condominium Act. Any management contract entered into by the Association shall be in compliance with the provisions of the Condominium Act.

9.4 Membership. The membership of the Association shall be comprised of owners of the Condominium Units, as further provided herein and in the By-Laws.

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

9.6 Powers and Duties. The powers and duties of the Association include those set forth in the Condominium Act and the Condominium Documents. The Association may contract, sue, or be sued with respect to the exercise or non-exercise of its powers. For these purposes, the powers of the Association include, but are not limited to, the maintenance, management, and operation of the condominium property.

9.7 Official Records. The Association shall maintain its Official Records as required by law. The records shall be open to inspection by Unit Owners or their authorized representatives at reasonable times, and copies shall be available at reasonable cost to the owner requesting copies. The records shall include, but are not limited to the following:

A. A record of all receipts and expenditures.

B. All financial source documents.



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C. An account for each Unit designating the name and current mailing address of the Unit Owner, the amount of each assessment, the dates and amounts in which assessments come due, the amounts paid on account, and the balance due.

D. Declaration of Condominium, Articles of Incorporation, By-Laws and Amendments.

E. Rules.

F. Question and Answer Sheet.

9.8 Purchase Of Units. The Association has the power to purchase Units in the condominium and to acquire and hold, lease, mortgage, and convey them, subject to the approval of a majority of the Board of Directors.

9.9 Roster. The Association shall maintain a current roster of names and mailing addresses to Unit Owners. A copy of the up-to-date roster shall be made available to each Unit Owner upon request.

9.10 Limitation On Liability. Notwithstanding its duty to maintain and repair the Common Elements and the Association Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair, caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or Unit Owners or other persons.

10. ASSESSMENTS AND LIENS. The Association has the power to make and collect assessments against each Unit and Unit Owner in order to provide the necessary funds for proper operation and management of the condominium and for the operation of the Association. The Association has the power to levy and collect assessments based on the annual budget; to levy special assessments for non-recurring or unbudgeted common expenses; and to impose special charges against any individual Unit for any amounts, other than for common expenses, which are properly chargeable against such Unit under this Declaration or the Association's By-Laws. Assessments will be paid quarterly, in advance, by the Unit Owners. The Association shall collect all assessments and other sums due the Master Association if required of it by the Master Association. The Association shall remit the assessments to the Master Association pursuant to such procedures as may be adopted by the Master Association. If so required by the Master Association, assessments due the Master Association by the Association shall be a common expense of the Association. Assessments shall be levied and payment enforced as provided by law and as follows:

10.1 Common Expenses. Common expenses include all expenses for the operation, maintenance, repair or replacement of the Common Elements and Association Property, the expenses of operating the Association and any other expenses properly incurred by the Association for the Condominium, including any amounts budgeted for the purpose of funding reserve accounts. The cost of water, sewer service and trash removal shall also be a Common Expense.



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10.2 Share Of Common Expense. Each Unit Owner shall be liable for its proportional share of the common expenses as provided herein, and shall share in the common surplus in the same proportion. Said share is equal to the Unit Owner's share in the Common Elements. Such right shall not vest or create in any Unit Owner the right to withdraw or receive distribution of his share of the common surplus, except as otherwise provided herein.

10.3 Ownership. Assessments collected by or on behalf of the Association become the property of the Association. No Unit Owner has the right to claim, assign or transfer any interest therein except as an appurtenance to his Unit.

10.4 Liability For Assessments. The owner of each Unit, regardless of how title was acquired, is liable for all Assessments or installments thereon coming due while he is the owner. Multiple owners are jointly and severally liable. Except as provided in Section 10.11 below, whenever title to a Unit is transferred for any reason, the grantee is jointly and severally liable with the grantor for all unpaid assessments against the grantor without prejudice to any right the grantee may have to recover from the grantor any amounts paid by the grantee. Any lease of a Unit shall be subordinate to any Claim of Lien filed by the Association against the Unit, regardless of whether the lease was executed before or after the Claim of Lien was recorded.

10.5 No Waiver. The liability for assessments may not be avoided by waiver of the use or enjoyment of any Common Elements or by abandonment of the Unit for which the assessments are made, or by interruption in the availability of the Unit or the Common Elements for any reason whatsoever. No Unit Owner may be excused from payment of his share of the common expenses unless all Unit Owners are likewise proportionately excused from payment, except as provided below as to first mortgagees and the Developer.

10.6 Failure To Pay; Interest. All sums for assessments and installments thereon not so paid within thirty (30) days from the date said installment is due shall bear interest at the highest rate allowed by law, but in any event not to exceed the highest rate allowed by law, until paid. In addition, the Association may charge an administrative late fee, not to exceed the greater of $25.00 or 5% of each delinquent installment. All payments on account shall be applied as provided in the By-Laws. Assessments and installments thereon shall become due, and the Unit Owner shall become liable for said assessments and installments, on the date set by the Association for payment.

10.7 Liens. The Association has a lien on each Unit securing payment of any unpaid assessments, including interest and reasonable attorney's fees and costs incurred by the Association incident to the collection of the assessment or enforcement of the lien. The lien is perfected upon recording a Claim of Lien in the Public Records of Collier County, Florida, stating the legal description of the Condominium Unit, the name of the record owner, the amount due and due dates. The lien shall be in effect for one year after the claim of lien has been recorded unless, within the one year period, the lien is released, or an action to enforce the lien is commenced in a court of competent jurisdiction. The Claim of Lien secures payment of all assessments which are due until the entry of a judgment of foreclosure. A Claim of Lien must be signed and acknowledged by an officer, agent or attorney of the Association. Upon full



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payment, the person making the payment is entitled to a satisfaction of the lien as provided in Chapter 718, Florida Statutes.

10.8 Priority Of Lien. The Association's Claim of Lien for unpaid assessments shall be effective as of the date of recording of the Declaration of Condominium. The Association Claim of Lien for unpaid assessments is limited by the rights of an institutional first mortgagee as set forth in Section 10.11 of the Declaration. Any lease of a Unit shall be subordinate and inferior to any Claim of Lien of the Association, regardless of when the lease was executed.

10.9 Foreclosure. The Association may bring an action in its name to foreclose a lien for unpaid assessments in the manner provided in the Condominium Act and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The Association is entitled to recover its reasonable attorney's fees incurred in either a lien foreclosure action or an action to recover a money judgment for unpaid assessments. If a Unit is rented during the pendency of a foreclosure proceeding by the Association, the Association may apply to the court to have a receiver appointed to collect the rent and the expenses of the receiver will be paid by the party which does not prevail in the foreclosure action.

10.10 Transfer Of Ownership Of Foreclosed Unit. If a foreclosure action is brought against the owner of a Condominium Unit and the interest of the owner in the Condominium Unit is sold, the Condominium Owner's Membership shall be cancelled and membership shall be issued to the purchaser at the foreclosure sale.

10.11 Mortgage Foreclosure. Except as otherwise provided by law, a first mortgagee who acquires title to the Unit by foreclosure or by deed in lieu of foreclosure is liable for the unpaid assessments that became due prior to the mortgagee's receipt of the deed. However, the mortgagee's liability is limited to a period not exceeding 6 months, but in no event does the first mortgagee's liability exceed 1 percent of the original mortgage debt. The first mortgagee's liability for such expenses or assessments does not commence until 30 days after the date the first mortgagee received the last payment of principal or interest. In no event shall the mortgagee be liable for more than 6 months of the unit's unpaid common expenses or assessments accrued before the acquisition of the title to the unit by the mortgagee or 1 percent of the original mortgage debt, whichever amount is less. The unpaid share of common expenses or assessments is a common expense collectible from all of the Unit Owners, including such acquirer and his successors and assigns. No owner or acquirer of title to a Condominium Unit as a result of foreclosure, or a deed in lieu of foreclosure, may, during the period of his ownership of such Unit, whether or not such Unit is occupied, be excused from the payment of any assessments coming due during the period of such ownership.

10.12 Certificate As To Assessments. Within fifteen (15) days after request by a Unit Owner or Unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Unit Owner with respect to the Condominium Parcel. Any person other than the owner who relies upon such certificate shall be protected thereby.



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11. MAINTENANCE; LIMITATION UPON ALTERATION AND IMPROVEMENT. Responsibility for the maintenance of the Condominium Property and restrictions on its alteration and improvements shall be as follows:

11.1 Units.

A. By The Association. The Association shall maintain, repair and replace at the Association's expense such portions of the Unit as contribute to the support of the buildings, including but not limited to the perimeter walls, columns, roofs and floors, wiring, piping, duct work and other mechanical or electrical or other installations or equipment serving the Common Elements or more than one Unit; all Limited Common Elements not elsewhere required to be maintained by the Unit Owners, and all the Common Elements and Association property. However, if any such maintenance, repair or replacement shall be made necessary because of the negligence, act or omission of a Unit Owner, his family, lessees, invitees or guests, then the work shall be done by the Association at the expense of the Unit Owner. All incidental damage caused to a Unit by work done or ordered by the Association shall be promptly repaired by and at the expense of the Association, which shall restore the Unit as nearly as practical to its condition before the damage.

B. By The Unit Owner. The responsibilities of the Unit Owner shall be as follows:

(1) Each Unit Owner shall be responsible, at his own expense, for all maintenance, repairs, and replacements of and within his own Unit, and of such portions of the heating and air conditioning equipment and other facilities or fixtures as are located or contained entirely within his own Unit or which service only his Unit; provided, however, that any insurance proceeds payable to the Association with respect to loss or damage to the fixtures within the Unit which are covered by the Association's insurance provided for in this Declaration, and which loss would otherwise be borne by the Unit Owner, shall be paid to such Unit Owner, less any deductible required by the insurance policy. Each Unit Owner shall be responsible for all maintenance and decorating within his own Unit, including painting, wallpapering, paneling, floor covering, draperies, window shades, curtains, lamps and other light fixtures, and other furnishings and interior decorating, including the inside surface of the Unit entrance door. No Unit Owner may make any additions to the Common Elements or Limited Common Elements or do anything which would adversely affect the safety or soundness of the Common Elements or Limited Common Elements, or any portion of the Condominium which is to be maintained by the Association.

(2) No Unit Owner shall paint, decorate or change the appearance of any exterior portion of the building or the Common Elements, unless the prior written consent of the Association is first obtained.



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(3) A Unit Owner may not make any alterations to his Unit which would add to or remove any portion of the Common Elements or Limited Common Elements without prior approval of the Association, nor do anything which would adversely affect the safety or soundness of any portion of the Condominium Property.

11.2 Common Elements. The maintenance, repair and replacement of the Common Elements is the responsibility of the Association and is a common expense. Except as otherwise provided herein, there shall be no material alteration of, nor substantial additions to the Common Elements without prior approval by the owners of not less than two-thirds (2/3) of the Units. The Board of Directors may adopt a uniform plan for enclosing screened porches and terraces; and owners may, at their own expense, enclose their porches or terraces in conformity with such plan after submitting plans and specifications to the Association and obtaining its written approval. The enclosure of a porch or terrace does not change its status as a Limited Common Element. If work required to be done by the Association in order to perform its duties to repair or replace the Common Elements also constitutes a material alteration of, or substantial addition to, the Common Elements, no Unit Owner consent or vote is required.

11.3 Alterations and Additions to Common Elements and Association Property By Association. The protection, maintenance, repair and replacement of the Common Elements and Association property is the responsibility of the Association and the cost is a common expense. Beyond this function, the Association shall make no material alteration of, nor substantial additions to, the Common Elements or Association property without prior approval of at least two-thirds (2/3) of the voting interests. However, if work reasonably necessary to protect, insure, maintain, repair or replace the Common Elements also constitutes a material alteration or substantial addition to the Common Elements, no prior Unit Owner approval is required.

11.4 Enforcement of Maintenance. If the owner of a unit fails to maintain the unit or its appurtenant Limited Common Elements as required above, the Association shall have the right to institute legal proceedings to enforce compliance, or may take any and all other steps necessary to remedy such violation. The Association has the irrevocable right of access to each Unit during reasonable hours, when necessary for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. Any expenses so incurred by the Association shall be charged against the Unit Owner, together with reasonable attorney's fees and other expenses of enforcement.

11.5 Negligence; Damage Caused By Condition Within Unit. Each Unit Owner shall be personally liable for the expenses of any maintenance, repair or replacement made necessary by his negligence or by that of any member of his family or his guests, employees, agents, or lessees, but, unless the negligence is of such character as to evidence gross recklessness or willful or wanton disregard for life or property, the Unit Owner shall be liable only to the extent that such expense is not met by the proceeds of insurance carried by the Association. If any condition, defect or malfunction existing within a Unit, whether caused by the owner's negligence or otherwise, shall cause damage to the Common Elements or to other Units, the owner of the offending Unit shall be liable to the persons or entity responsible for repairing the damaged areas for all costs of repair or replacement not paid by insurance.



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11.6 Maintenance and Appearance. Each member shall maintain his Unit and all fixtures and appliances located therein in good condition and repair at all times. No glass, screen, curtain, blind, shutters or awning may be installed on any porch or terrace without prior written approval by the Board of Directors. Each owner is prohibited from painting or otherwise decorating or changing the appearance of any portion of the exterior of his Unit or the building except with prior written approval of the Board of Directors. All curtains, blinds, shades or other window coverings in the Unit shall be of such material, construction and installation that the only color visible from outside the Unit is white or a nearly white neutral color.

11.7 Floor Covering. All Units above the ground floor shall always have the floors covered with wall-to-wall carpeting, except in kitchens, dining rooms, bathrooms, porches, and foyers where other types of non-resilient floor coverings installed with acoustically acceptable underlayment material as approved in writing by the Board, may be substituted. Non-resilient floor covering may be installed in bathrooms without the use of acoustical underlayment.

11.8 Association Access To Units. The Association has the irrevocable right of access to the Units during reasonable hours, when necessary, for the maintenance, repair or replacement of any Common Element or for making emergency repairs which are necessary to prevent damage to the Common Elements or to another Unit or Units. Further, the Association has the irrevocable right of access to the Units for maintenance, repair or replacement of any part of the Unit which is to be maintained by the Association under this declaration. The Association's right of access includes, without limitation, entry for purposes of pest control, if necessary, and preventative maintenance of safety equipment such as smoke alarms. The exercise of the Association's access rights shall be accomplished with due respect for the Unit Owner's rights to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the owner's property. The Association shall retain a pass-key to all Units. No Unit Owner shall alter any lock, nor install a new lock which prevents access when the Unit is unoccupied, without notifying the Board of Directors in writing and providing the Association with a key.

12. USE RESTRICTIONS. In addition to any restrictions imposed upon the property by the Master Association as provided in the Master Declaration, the use of the Units shall be in accordance with the following provisions as long as the Condominium exists.

12.1 Residential Use. The Condominium Units subject to these covenants and restrictions may be used for single-family residential living and for no other purpose. No trade, business, profession or other type of commercial activity may be conducted on any part thereof.

12.2 Minors. There is no restriction on occupancy by children. Children shall be closely supervised at all times by an adult to insure that they do not become a source of annoyance to other residents of the Condominium. The Board of Directors shall at all times have the authority to reasonably require that the Unit Owner, lessee, guest or other adult who is responsible for a particular child remove him or her from any Common Element area if the child's conduct is such that the Board believes this action is necessary. In no event shall children under the age of ten (10) years be permitted in the pool area or other Common Areas, elevators or walkways unless accompanied by an adult.



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12.3 Pets. The owner(s) of each Unit may keep one (1) small pet, of a normal domesticated household type such as a cat or dog, in the Unit. The Pet must be less than twenty (20) pounds in weight and the pet must be leashed at all times while on the Condominium Property outside of the Unit. No pets are permitted in the recreation areas or facilities. Each pet owner shall be responsible for the removal and disposal of their pet's body waste. The ability to have such a pet is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a reasonable source of annoyance to other residents of the Condominium. No pets of any kind are permitted in leased Units. No reptiles, amphibians or livestock may be kept in the Condominium.

12.4 Nuisance. No Unit Owner shall use or permit a Unit to be used in any manner which would be unreasonably disturbing, detrimental or a nuisance to the occupant of another Unit or which would not be consistent with the maintenance of the highest standards for a first class residential condominium, nor permit the premises to be used in a disorderly or unlawful way. The use of each Unit shall be consistent with existing laws and the Condominium Documents, and occupants shall at all times conduct themselves in a peaceful and orderly manner.

12.5 Parking. No boats, trucks, commercial vehicles, trailers, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles or vans, as determined by the Board, shall be placed, parked or stored in the Common Elements for a period of more than four hours unless such vehicle is necessary in the actual construction or repair of a structure or for ground maintenance, nor shall any maintenance or repair be performed upon any boat or motor vehicle not owned or controlled by the Association or the Declarant in the properties, except within a building where totally isolated from public view.

12.6 Antennas and Signs. No aerial, antenna, antenna poles, antenna masts, citizen band or amateur band antennas, or satellite dish or any wiring for any purpose may be installed on the exterior of the building in which the Unit is located. No signs or banners shall be placed on or exhibited from any Unit, Common Element or Limited Common Element without the prior written approval of the Association.

12.7 Access. The sidewalks, entrances, passages, vestibules, stairways, corridors and halls must not be obstructed or encumbered or used for any purposes other than ingress and egress to and from the premises.

12.8 Stairs and Halls. All stairways shall be used for the purposes intended and shall not be used for hanging garments or other objects or for cleaning of rugs or other household items. No wash lines of any kind will be maintained outside any Unit. No Unit Owner shall discard or permit to fall any items from the windows or the premises, nor shall they place or permit to be placed any foreign objects in the hallways, stairways and other Common Elements.

12.9 Common Elements. All Common Elements inside and outside the building will be used for their intended purposes and no articles belonging to Unit Owners shall be kept therein or thereon and such areas shall at all times be kept free of obstruction.



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12.10 Garbage. Disposition of garbage and trash shall be only by the use of garbage disposals in the Units or by use of receptacles approved by the Association.

12.11 Fire Hazards. No garbage cans, supplies, milk bottles or other articles shall be placed in the halls or on the staircase landings, nor shall anything be hung from the windows or balconies or placed upon the window sills. Neither shall any linens, cloths, clothing, curtains, rugs, or mops be shaken out or hung from any of the windows or doors. No fire exits shall be obstructed in any manner.

12.12 Leasing. Leasing or renting of the Unit by Unit Owners shall be as permitted and subject to the provisions of the Condominium Declaration herein.

12.13 Association. In addition to other obligations and duties heretofore set out in this Declaration, every Owner or occupant of a Condominium Unit shall abide by use restrictions and any rules and regulations adopted by the Association which are not inconsistent with the provisions set forth herein or the Exhibits hereto and the use restrictions set forth in the General Covenants for Emerald Lakes of Naples.

13. TRANSFER OF OWNERSHIP OF UNITS. In order to maintain a community of congenial, financially responsible residents with the objectives of protecting the value of the Units and facilitating the development of a stable, quiet community and peace of mind for all residents, the transfer of ownership of a Unit by an owner shall be subject to the following provisions so long as the Condominium exists, which provisions each owner of a Unit covenants to observe:

13.1 Forms of Ownership.

A. A Unit may be owned by an individual person who has qualified and been approved as elsewhere provided herein.

B. Co-ownership. Co-Ownership of Units may be permitted, but all owners must be members of a single family or living together as a single housekeeping unit. If co-ownership is to be by more than two persons, the Board shall condition its approval upon occupancy only by one approved natural person as "primary occupant," and the use of the Unit by other persons shall be as if the primary occupant is the actual owner. Any change in the primary occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 13.

C. Ownership by Corporations, Trusts or Partnerships. A Unit 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 for other transfers of title. However, the intent of this provision is to allow flexibility in estate or tax planning, and not to create circumstances in which the Unit may be used as short term transient accommodations for several individuals or families. The approval as a Unit Owner of a corporation, trustee or any entity which is not a natural person shall be conditioned upon designation of one natural person to be the "primary occupant," and the use of the Unit by other persons shall be as lessees and as if the primary occupant is the only actual owner. Any change in the



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primary occupant shall be treated as a transfer of ownership subject to all the provisions of this Section 13. No more than one such change will be approved in any twelve month period.

D. Life Estate. A Unit may become subject to a life estate, either by operation of law or by approved voluntary conveyance. In that event, the life tenant shall be the only member in the Association from such Unit and occupancy of the Unit shall be as if the life tenant was the only owner. Upon termination of the life estate, the holder of the remainder interest shall have no occupancy right unless separately approved by the Association. The life tenant and remaindermen shall be jointly and severally liable for all assessment and charges against the Unit. The life tenant may, by signed agreement, transfer the right to vote in all Association matters to any one remainderman, subject to approval by the Association of such arrangement. If there is more than one life tenant, they shall be treated as if they were co-owners for purposes of voting and occupancy rights.

13.2 Transfers.

A. Sale or Gift. No Unit Owner may dispose of a Unit or any interest therein by sale or gift without the prior written approval of the Board of Directors of the Association.

B. Devise or Inheritance. If any Unit Owner acquires his title by devise or inheritance, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors of the Association. The approval of the Association shall not be denied to any devisee or heir who was the 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 Unit Owner shall acquire his title in any manner not considered in the foregoing subsections, his right to occupy or use the Unit shall be subject to the approval of the Board of Directors of the Association under the procedures outlined in 13.3 below.

D. Mortgaging of Units. There shall be no restrictions on the mortgaging of Units. All mortgages, other than a first mortgage of record, shall be subject to and inferior to the Association lien for assessments regardless of when recorded.

13.3 Procedures.

A. Notice to Association.

(1) Sale or gift. An owner intending to make a sale or gift of his Unit or any interest therein shall give to the Board of Directors or its designee written notice of such intention at least twenty (20) days prior to the date of the proposed transfer, together with the name and address of the proposed purchaser or donee and such other information as the Board may reasonably require. The Board may require the



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personal appearance of any purchasers or donee and his spouse, if any, as a condition of approval.

(2) Devise, Inheritance, or Other Transfers. The Transferee must notify the Association of his ownership and submit to the Association 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 right unless approved by the Board, but may sell or lease the Unit following the procedures provided in this Section and in Section 14.

(3) Failure to Give Notice. If no notice is given, the Association at its election may approve or disapprove the transfer without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed transferee may provide the Board with the required notice and request consideration.

B. Within fifteen (15) days of receipt of the required notice and all information or appearances requested, whichever occurs last, the Board shall approve or disapprove the transfer. If a transfer is approved, the approval shall be stated in a Certificate of Approval executed by an Officer of the Association in recordable form and delivered to the transferee. If the Board neither approves nor disapproves within said fifteen (15) days, 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) Approval by the Association shall be denied only if a majority of the whole Board so votes.

(2) If the Board disapproves of the transfer, the Association shall have forty-five (45) days from date of disapproval within which to find an alternate purchaser or to purchase the Unit. In either case, the purchase shall be on the same terms and conditions as contained in the contract of sale, except that the purchase price shall be paid in cash and the closing will take place within forty-five (45) days from the date of disapproval.

If the Association fails to close the purchase within said forty-five (45) day period other than through the fault of the Unit Owner or the Unit Owner's inability to convey clear and marketable title to the Association, the Unit Owner shall be free to sell and convey the Unit to the intended purchaser.

13.4 Exception. The provisions of Sections 13.2 and 13.3 are not applicable to the acquisition of title by an institutional mortgagee who acquires title through the mortgage, whether by foreclosure or deed in lieu of foreclosure, nor shall the Association's approval be required for the subsequent resale or lease of a unit by such mortgagee of the unit so acquired, but shall apply to the acquisition of title by any other person.



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13.5 Unapproved Transfers. The purchaser of any sale or transfer of ownership which is not approved pursuant to the terms of this Declaration shall have no occupancy right unless subsequently approved in writing by the Board.

13.6 Fees for Processing Applications for Approval to Purchase or Lease. Whenever herein the Association's approval is required to allow the sale, lease, or other transfer of an interest in a Unit, the Association may charge the owner a fee for processing the approval, such fee not to exceed $50.00 per applicant. No fee may be charged for approval of the renewal or extension of a lease with the same lessee.

14. LEASING OF UNITS. All leases of Units must be in writing and a copy of any lease shall be delivered to the Board upon commencement of the lease. The lessee must be at least one natural person. The provisions of this Declaration shall be deemed expressly incorporated into any lease of a Unit. The provisions of this Declaration shall be deemed expressly incorporated into any lease or unit. The lessee must be at least one natural person. A Unit Owner may lease his entire Unit only in accordance with the following provisions:

14.1 Procedures.

A. Notice. An owner intending to make a lease of his Unit must give to the Board of Directors or its designee written notice of such intention and a copy of the proposed lease at least twenty (20) days prior to the proposed transaction, together with the name and address of the proposed lessee and such other information as the Board may reasonably require. The Board or its designee may require the personal appearance of any lessee and his spouse, if any, as a condition of approval.

B. Approval. After the required notice and all information or appearances requested, have been provided, the Board or its designee, shall approve or disapprove the proposed lease within fifteen (15) days. If the Board or its designee neither approves nor disapproves within the time stated above, such failure to act shall be deemed the equivalent of approval.

C. Disapproval. Approval of the Association shall be withheld if a majority of the whole Board so votes, and in such case the lease shall not be made. The Board may not approve a lease when the payment of assessments for that Unit is delinquent.

D. Failure to Give Notice. If proper notice is not given, the Association at its election may approve or disapprove the lease without prior notice. If it disapproves, the Association shall proceed as if it received notice on the date of such disapproval; however, the proposed lessee may provide the Board with the required notice and request reconsideration. Any lease entered into without approval or in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the right to evict the lessee with five (5) days notice, without securing consent to such eviction from the Unit Owner.

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E. Applications. Applications for authority to lease shall be made to the Board of Directors on such forms and include such terms as the Board may, from time to time, provide. The legal responsibility for paying condominium assessments may not be delegated to the lessee.

14.2 Term of Lease and Frequency of Leasing. No Unit may be leased for a period of less than ninety (90) days nor more than three (3) times per year. No subleasing or assignment of lease rights is allowed unless the sublessee or subtenants are approved pursuant to the provisions of this section.

14.3 Occupancy During Lease Term. No one but the lessee, his family within the first degree of relationship by blood, adoption or marriage, and their guests may occupy the Unit.

14.4 Occupancy in Absence of Lessee. If a lessee absents himself from the Unit for any period of time during the lease term, his family already in residence may continue to occupy the Unit. If the lessee and all of the family members mentioned in the foregoing sentence are absent, no other person may occupy the Unit, except the approved Unit Owner.

14.5 Security Deposits. The Board may require lessees to place a security deposit with the Association in an amount up to one month's rent to cover damage to the Common Elements by the lessee, his guests or invitees. Said deposit shall be held by the Association pursuant to the provisions of Part II of Chapter 83 of the Florida Statutes.

14.6 Regulation by Association. In order to preserve a residential quality and avoid an atmosphere of transience and a motel-like environment, the Board of Directors may, by regulation, impose further restrictions upon the number of guests and the frequency of their visits in the case of leased Units. All of the provisions of the Condominium Documents and the Rules and Regulations of the Association pertaining to use and occupancy shall be applicable and enforceable against any person occupying a Unit as a lessee or guest to the same extent as against an owner, and a covenant upon the part of each occupant to abide by the rules and regulations of the Association and the provisions of the Condominium Documents, and designating the Association as the owner's agent for the purpose of and with the authority to terminate any such occupancy agreement in the event of a violation by the tenant of such covenants, shall be an essential element of any occupancy agreement, whether oral or written and whether specifically expressed in such agreement or not.

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

15.1 Duty and Authority to Obtain. The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it is authorized to carry. The name of the insured shall be the Association or, in the discretion of the Board an insurance trustee, individually and as agent for the Association and for the Unit Owners without naming them, and their mortgagees.



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15.2 Required Coverage. The Association shall maintain property and liability insurance covering all of the buildings and other insurable improvements within the Condominium Property and the Association property, including Common and Limited Common Elements, and including fixtures installations or additions located within the individual Units initially installed or replacements thereof of like kind and quality, in accordance with the original plans and specifications of the Condominium in an amount equal to the maximum insurable replacement value thereof, as determined annually by the Board; such insurance to afford the following protection:

A. Property Damage. 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. Flood Insurance. If required by law, the maximum amount available from time to time as underwritten and insured by the federal, state or local government.

C. Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

D. Automobile. Automobile liability for bodily injury and property damage for all owned and/or non-owned motor vehicles in such limits of protection and with such coverage as shall be required by the Board.

E. Worker's Compensation. The Association shall maintain Worker's Compensation insurance on at least a minimum premium basis to meet the requirements of law.

F. Fidelity Bond. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association. The amount of the bond shall be based upon the Association's annual gross receipts pursuant to Section 718.112, Florida Statutes.

15.3 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged to the Unit Owners as Common Expenses.

15.4 Optional Coverage. The Association may purchase and carry other such insurance coverage as the Board of Directors may determine from time to time to be in the best interest of the Association and Unit Owners. Unit Owners are encouraged to procure contents insurance, however, any insurance obtained by Unit Owners must contain waivers of subrogation and may not affect the coverage under Association policies.

15.5 Description of Coverage. A detailed summary of the coverage included in the master policies shall be available for each Unit Owner. The master policies shall be available for inspection by Unit Owners upon request.



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15.6 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 Unit Owners, the Association, or their respective servants, agents or guests, except for any claim based upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

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

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

B. Units. Proceeds on account of Units or contents of Units shall be held in the following undivided shares:

(1) Partial destruction, when the buildings are to be restored - For the owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner less the deductible.

(2) Total destruction of the buildings or when the buildings are not to be restored - For owners of all Units, each owner's share being in proportion to his share in the Common Elements.

(3) Mortgagee - If a mortgagee endorsement has been issued as to a Unit, the shares of the mortgagee and the Unit Owner shall be as their interests appear. In no event shall any mortgagee have the right to demand application of insurance proceeds to any mortgage or mortgages which it may hold against Units, except to the extent that insurance proceeds exceed the actual cost of repair or restoration of improvements or if the Condominium is being terminated. No mortgagee shall have any right to participate in determining whether improvements will be restored after casualty.

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

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



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

C. Certificate. In making distribution to Unit Owners and their mortgagees, the Association may rely upon a certificate of an abstract attorney or title company as to the names of the Unit Owners and mortgagees.

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

16. RECONSTRUCTION OR REPAIR AFTER CASUALTY. If any part of the Condominium Property is damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:

16.1 Damage to Units Only, Not Common Elements. Where loss or damage occurs within a single Unit or Units, without damage to the Common Elements, the insurance proceeds, less the deductible (which shall be paid by the Unit Owner) shall be distributed to the Unit Owner(s) (remittances to Unit Owners and their mortgagees being payable jointly to them). This is a covenant for the benefit of mortgagees and may be enforced by such mortgagees.

16.2 Damage to Common Elements - Less than "Very Substantial". Where loss or damage occurs to the Common Elements, or to any Unit or Units and the Common Elements, but the loss is less than "very substantial", as hereinafter defined, it shall be mandatory for the Association and the Unit Owners to repair, restore, and rebuild the damage caused by the loss, and the following procedures shall apply:

A. The Board of Directors of the Association shall promptly obtain at least three (3) reliable and detailed estimates of the cost of repair and restoration.

B. The Board of Directors shall have the obligation to promptly negotiate and contract for the repair and restoration of the premises.

C. If the net proceeds of insurance appear to be, or are, insufficient to pay for the cost of restoration and repair, the Association shall promptly levy a special assessment against all Unit Owners in proportion to their shares in the Common Elements for any deficiency. Such special assessments need not be approved by the Unit Owners. The special assessments shall be added to the proceeds available for repair and restoration of the property.

16.3 "Very Substantial" Damage. As used in this Declaration, the term "very substantial" damage shall mean loss or damage whereby three fourths (3/4) or more of the total Units are rendered uninhabitable. Should such "very substantial" damage occur then:



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A. The Board of Directors of the Association shall promptly obtain at least three (3) reliable and detailed estimates of the cost of repair and restoration.

B. A membership meeting shall be called by the Board of Directors to be held not later than sixty (60) days after the casualty, to determine the wishes of the membership with reference to rebuilding or abandonment of the Condominium Project, subject to the following:

(1) If the net insurance proceeds available for restoration and repair are sufficient to cover at least 90% of the estimated cost thereof, then the Condominium Property shall be restored or repaired unless two-thirds (2/3) of the Unit Owners vote for abandonment, or unless the then applicable zoning or other regulatory laws will not allow reconstruction of the same number and general type of Unit, in which cases the Condominium shall be terminated.

(2) If the net insurance proceeds available for restoration and repair are not sufficient to cover 90% of the estimated cost thereof, and a substantial special assessment will be required, then unless two-thirds (2/3) of the owners vote in favor of such special assessment and against termination of the Condominium, it shall be terminated and the property removed from the provisions of the Condominium Act. If two-thirds (2/3) of the Unit Owners vote in favor of the special assessment, the Association, through its Board, shall levy the assessment and shall proceed to negotiate and contract for such repairs and restoration.

C. If any dispute shall arise as to whether "very substantial" damage has occurred, a determination by the Board of Directors shall be binding upon all Unit Owners.

16.4 Application of Insurance Proceeds. It shall be presumed that the first monies disbursed for repair and restoration shall be from the insurance proceeds; if there is a balance in the reconstruction funds after the payment of all costs of repair and restoration, such balance shall be distributed to the Unit Owners, except as otherwise provided herein.

16.5 Equitable Relief. In the event of substantial damage to the Condominium Property, and if the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any Unit Owner may petition a court for equitable relief, which may include a termination of the Condominium and a subsequent partition of the property. For the purposes of this provision, it shall be presumed that repair, reconstruction or rebuilding has occurred within a "reasonable period of time" if substantial work is commenced within four (4) months and completed within nine (9) months following the damage or destruction. The fact that a Unit is untenantable does not excuse the owner from paying assessments for common expenses. In the event of a termination of the Condominium and subsequent partition of the Property as a result of substantial damage to the Condominium, the net proceeds or the salvage value shall be divided among Unit Owners and their Mortgagees in accordance with their undivided interest in the Common Elements.



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16.6 Plans and Specifications. Any reconstruction or repairs must be substantially in accordance with the plans and specifications for the original buildings, or in lieu thereof, according to plans and specifications approved by the Board of Directors of the Association and by the owners of three-fourths (3/4) of the Units.

17. CONDEMNATION.

17.1 Deposit Of Awards With Association. The taking of all or any part of the Condominium Common Elements by condemnation or eminent domain shall be deemed to be a casualty as to the portion taken, and the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. The award for the taking of all or any part of a Unit shall be deposited by the Unit Owner with the Association, and if any fail to do so, a charge shall be made against a defaulting Unit Owner in the amount of his award. Disbursement of an award for the taking of a Unit shall be pursuant to Section 17.5 below.

17.2 Determination Whether to Continue Condominium. Whether the Condominium will be continued after a condemnation affecting all or part of the Condominium Property will be determined in the manner provided for determining whether damaged property will be reconstructed and repaired after a casualty.

17.3 Disbursement Of Funds. If the Condominium is terminated after condemnation, the proceeds of all awards and special assessments will be owned and distributed in the manner provided for insurance proceeds when the Condominium is terminated after a casualty. If the Condominium is not terminated after condemnation, but the size of the Condominium will be reduced, the owners of condemned Units, if any, will be made whole, and any property damaged by the taking will be made usable in the manner provided below. Proceeds of awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds after a casualty.

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

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

A. Restoration of Unit. The Unit shall be made tenantable. If the cost of restoration exceeds the amount of the award, the additional funds required shall be charged against the owner of the Unit.

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



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C. Adjustment of Shares in Common Elements. If the floor area of a Unit is reduced by the taking, the number representing the share in the Common Elements appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares of all Unit Owners in the Common Elements shall be restated as percentages of the total of the numbers representing their original shares as reduced by the taking.

17.6 Unit Made Untenantable. If the taking is of any entire Unit or so reduces the size of a Unit that it cannot be made tenantable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium.

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

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

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

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

E. Arbitration. If the fair market value of a Unit prior to the taking cannot be determined by agreement between the Unit Owner and the Association within thirty (30) days after notice by either party, the value shall be determined by appraisal in accordance with the following. The Unit Owner, the first mortgagee, if any, and the Association shall each appoint one M.A.I. appraiser, who shall appraise the Unit and shall determine the fair market value by computing the arithmetic average of their appraisals of the Unit; and a judgment of specific performance upon the value arrived at by the appraisers may be entered in any court of competent jurisdiction. The cost of appraisal shall be paid by the party selecting the appraiser.



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

17.8 Amendment of Declaration. The changes in Units, in the Common Elements and in the ownership of the Common Elements and liability for common expenses that are necessitated by condemnation shall be evidenced by an amendment of the Declaration of Condominium that must be approved by a majority of the Unit Owners.

18. TERMINATION. The Condominium may be terminated in the following manner:

18.1 Agreement. The Condominium may be terminated at any time by approval, in writing, of the owners of ninety percent (90%) of the Units and all institutional first mortgagees of record.

18.2 Very Substantial Damage. If the Condominium, as a result of common casualty, be damaged to the extent defined in Section 16.3, and it not be decided as therein provided that it will be reconstructed or repaired, the condominium form of ownership will thereby terminate without agreement.

18.3 General Provisions. Upon termination, the Unit Owners shall be the owners as tenants in common of the Condominium Property and the assets of the Association. The shares of such tenants in common shall be the same as were their shares of the Common Elements. The mortgagee or lienor of a Unit Owner shall have a mortgage or lien solely and exclusively upon the undivided share of such tenant in common in and to the lands and other properties and rights which he may receive by reason of such termination. The termination of the Condominium shall be evidenced by a certificate of the Association executed by its President and Secretary certifying as to facts effecting the termination. Termination shall become effective when the certificate is recorded in the Public Records of Collier County, Florida.

18.4 New Condominium. The termination of a Condominium does not bar creation of another Condominium affecting all or any portion of the same property.

18.5 Partition; Sale. Following termination, the Condominium Property may be partitioned and sold upon the application of any Unit Owner. If following a termination, the owners of seventy-five percent (75%) of the Units determine to accept an offer for the sale of the Condominium Property, each owner shall be bound to execute deeds and other documents reasonably required to effect the sale. In such event, any action for partition of the former Condominium Property shall be held in abeyance pending the sale, and upon the consummation of the sale shall be discontinued by all parties thereto.



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18.6 Last Board. The members of the last Board of Directors shall continue to have the powers granted in this Declaration for the purpose of winding up the affairs of the Association, notwithstanding the fact that the Association itself may be dissolved upon a termination.

18.7 Provisions Survive Termination. The provisions contained in this Section 18 shall be deemed covenants running with the land, and shall survive the termination of the Condominium for a period long enough to accomplish all the purposes stated herein.

19. OBLIGATION OF OWNERS.

19.1 Action for Damages. Each Unit Owner, his tenants, guests and invitees, and the Association shall be governed by and shall comply with the provisions of the Condominium Act, this Declaration, the documents creating the Association, the By-Laws, any Rules and Regulations promulgated by the Association and the Master Declaration, its Articles and By-Laws. Actions for damages or for injunctive relief, or both, for failure to comply with these provisions may be brought by the Association or by a Unit Owner against:

A. The Association;

B. A Unit Owner;

C. Anyone who occupies a Unit, including but not limited to any tenant leasing a Unit or other invitee occupying a Unit (such action in this instance may also include eviction proceedings); or

D. Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

19.2 Waiver. A provision of the Condominium Act may not be waived by a Unit Owner if the waiver would adversely affect the rights of the owner or defeat the purpose of the provision, except that Unit Owners or members of the Board of Directors may waive notice of specific meetings in writing as provided by the By-Laws. Any instrument given in writing by a Unit Owner or prospective purchaser of a Unit to an escrow agent may be relied upon by an escrow agent, whether or not such instruction and the payment of funds thereunder might constitute a waiver of any provision of the Condominium Act.

19.3 Attorney's Fees. In any legal proceeding arising out of an alleged failure of a tenant, Unit Owner or the Association to comply with the requirements of the Condominium Act or the Condominium Documents, as they may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees as may be awarded by the court.

19.4 No Waiver. The failure of the Association or of a member to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future.



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19.5 No Election of Remedies. All rights, remedies and privileges granted to the Association or Unit Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to 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 such other additional rights, remedies, or privileges as may be granted by the Condominium Documents, or at law or in equity.

19.6 Notice of Lien or Suit.

A. Notice of Lien. A Unit Owner shall give to the Association written notice of every lien upon his Unit other than for permitted mortgages, taxes and special assessments, within five (5) days after the Unit Owner receives actual notice of the attachment thereof.

B. Notice of Suit. A Unit Owner shall give notice, in writing, to the Association of every suit or other proceeding which may affect the title to his Unit, such notice to be given five (5) days after the Unit Owner receives actual knowledge thereof.

C. Failure to Comply. Failure to comply with this Section will not affect the validity of any judicial suit, however, if such failure is a substantial contributing cause of damage or harm to the Association or other owners, the owner shall be liable to the injured party.

20. RIGHTS OF MORTGAGEES.

20.1 Approvals. Prior written approval of the record holder of a first mortgage lien on a Unit in the Condominium shall be required for any amendment to the Declaration which would decrease the percentage interests of the Unit in the ownership of the Common Elements, except as provided in Section 17.

20.2 Notice of Condemnation. In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of, any Unit or any part of the Common Elements, the record holder of any first mortgage on the Unit shall be entitled to notice of any termination of the Condominium.

20.3 Lender's Notices. Upon written request to the Association, any institutional mortgagee shall be entitled to timely written notice of any 60-day or longer delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds a mortgage.

21. DEVELOPER'S RIGHTS AND DUTIES. So long as the Developer or any successor developer holds any Units in the Condominium for sale in the ordinary course of business, the following shall apply:

21.1 Developer's Use. Until the Developer has completed all of the contemplated improvements and has sold all of the Units in the Condominium and control of the Association has been turned over to Unit Owners, neither the Unit Owners nor the Association, nor their use of the Condominium Property shall unreasonably interfere with the completion of the



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contemplated improvements or sale of Units. The Developer may make such use of the unsold Units and of the Common Elements as may reasonably facilitate completion and sale, including, but not limited to, maintenance of a sales office, display of signs, and showing the Units for sale to prospective purchasers. No "For Sale" or "Lease" sign may be displayed upon the Condominium Property without the consent of the Association during this period.

21.2 Assignment. All or any portion of the right, privileges, powers and immunities granted or reserved to the Developer in the Condominium Documents may be assigned by the Developer to any person or entity, without the consent of any other Unit Owner or any holder of a mortgage secured by any Unit (other than the holder of a first mortgage secured by an interest of the Developer), but only if the assignee agrees without qualification to assume all of the duties and obligations of the Developer under this Declaration, and the Articles of Incorporation and By-Laws of the Association from and after the date of such assignment.

21.3 Amendment of Plans and Alterations of Boundaries and Apartment Dimensions. The interior design and arrangement of all Units may be changed or amended by a majority vote of the total voting interests of the Condominium. Unit boundaries may also be changed by a majority vote.

21.4 Turnover. Prior to, or not more than seventy-five (75) days after, the time that Unit Owners other than the Developer are entitled to elect a majority of the Directors of the Association, the Developer shall relinquish control of the Association, and the Unit Owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to Unit Owners other than the Developer prior to the above mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if Unit Owners other than the Developer refuse or fail to assume control.

21.5 Assessments. The Developer shall be excused from payment of its share of the Common Expenses as to the units owned by the Developer during the "Guaranty Period" which is a period commencing upon the recording of this Declaration until the Developer turns over the control of the Association to Unit Owners other than the Developer. During the period of time when the Developer is excused from paying its share of the Common Expense, the Developer shall be obligated to pay the difference between the Association's Common Expenses and the sums collected as the annual assessment for Common Expenses from Unit Owners other than the Developer. During the Guaranty Period, the annual assessment for each Unit, including reserves, shall not exceed $1,164.00 for the fiscal year ending December 31, 1994. The Developer may extend the Guaranty Period for one or more additional one year periods at its sole option.



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Upon the conclusion of the Guaranty Period, any working capital collected by the Association from Unit Owners upon their purchase of the Unit shall be available to the Association.

21.6 Condominium Name. Nothing herein contained shall be construed as giving this Condominium or the Association the exclusive right to use the name The Villages at Emerald Lakes Five, or any derivation thereof, and the Developer reserves the right to use said name in future projects. Further, nothing herein contained shall be construed as allowing this Association to manage future condominium projects.

21.7 Assignment of Rights. All rights in favor of Developer reserved in this Declaration of Condominium and the exhibits attached hereto are freely assignable in whole or in part by Developer and may be exercised by the nominee of Developer and/or exercised by the successor or successors in interest of Developer.

21.8 Amendments by Developer. As long as the Developer owns Units for sale in the ordinary course of business, the Developer reserves the right to amend this Declaration and its exhibits for one or any combination of the following purposes:

A. To depict all of the improvements existing on the Condominium Property; to depict all Common Elements and Limited Common Elements on the Condominium Property; to comply with the requirements of any federal, state or local law, government, quasi-government, agency or government-related corporation, including, without limitation, the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the provisions of the Fair Housing Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. Section 3601-3631 (the "FHAA").

B. To conform to the requirements of any institutional mortgagee or government agency willing to make, purchase or insure mortgage loans secured by Units or any portion of the Properties. Notwithstanding anything to the contrary contained in this Declaration, until the satisfaction of record of any mortgage placed upon the Condominium Property to finance the construction of the improvements for the Condominium Property (hereinafter referred to as the "Mortgage"), the following provisions shall be a part of this Declaration and shall supersede any inconsistent provisions contained elsewhere in this Declaration:

(1) Whenever the consent of Developer is required under this Declaration, the written consent of the holder of the Mortgage (hereinafter referred to as "Mortgagee") shall also be required for all amendments materially affecting the rights or interests of the mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and such consent will not be unreasonably withheld;

(2) No amendment shall be made to this Declaration which would alter the procedure for repairing or restoring the commonly insured real property or alter the rights of Mortgagee, or, in the opinion of Mortgagee, in any other way affect the



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security of Mortgagee, without Mortgagee's joinder and written consent to such amendment for all amendments materially affecting the rights or interests of the mortgagees, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, and such consent will not be unreasonably withheld; and

(3) If Mortgagee either assumes possession of any portion of the Condominium Property upon which said Mortgage is a lien or acquires title to unsold Units upon foreclosure of the Mortgage, by purchase of the unsold Units upon foreclosure of the Mortgage, by purchase of the unsold Units at foreclosure sale, or by deed in lieu of foreclosure, Mortgagee and its successors and assigns shall have and enjoy all of the rights and privileges granted to the Developer by this Declaration of Condominium.

Said Amendments may be made and executed solely by the Developer and recorded in the Public Records of Collier County, Florida, and without any requirement of securing the consent of any Unit Owner, the Association, the members thereof or the owner and holder of any lien encumbering a condominium parcel. No amendment shall unlawfully discriminate against any Unit Owner or any class of Unit Owners; and no amendment shall change any Unit's share in the Common Elements and other appurtenances, nor increase the owner's proportionate share of the common expenses, unless the owner of the Units concerned and their institutional mortgagees shall consent in writing to the amendment.

21.9 Sales of Units. The Developer shall have the right to sell or transfer any Unit owned by it on such terms and conditions as it deems in its own best interest. No purchaser from the Developer shall be required to obtain Association approval for the said purchase.

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

22.1 Proposal. In addition to the provisions contained in Section 21.8 herein, amendments to this Declaration may be proposed by the Board of Directors or by written petition signed by the owners of one-fourth (1/4) of the Units.

22.2 Procedure. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be transmitted to the President of the Association, who shall thereupon determine which of the methods shown in 22.3 below shall be used for voting. The appropriate notices and copies of the proposed amendments shall be mailed to the members not later than ninety (90) days after transmittal to the President.

22.3 Vote Required. Except as otherwise provided by law, or by specific provision of the Condominium Documents this Declaration may be amended by concurrence of two-thirds (2/3) of the voting interests present in person or by proxy and voting at any annual or special meeting for which notice has been given to the members in accordance with law. Alternatively,



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amendments may be adopted without a meeting following the procedure set forth in the By-Laws.

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

22.5 Proviso. Except as to provisions contained in the Plan of Development Section and Sections 21.3 and 21.8 of this Declaration, any amendment which changes the configuration or size of any Condominium Unit in any material fashion, materially alters or modifies the appurtenances to the Unit, or changes the proportion or percentage by which the owner of the Unit shares the common expenses and owns the common surplus, must be approved by two-thirds of the voting interests, the record owner of the Unit and his institutional mortgagee, if any, in writing. This proviso does not apply to changes caused by condemnation or a taking by eminent domain as provided in Section 17. No amendment shall unlawfully discriminate against any Unit Owner nor against any Unit or class or group of Unit Owners or Units.

22.6 Correction of Errors. If there is any omission or error in this Declaration of Condominium or in other documents required by Florida law to establish the Condominium, the Association may correct the error or omission by following the procedures set forth in the Condominium Act.

22.7 Exceptions. Wherever in this Declaration the consent, approval, or affirmative vote of more than two-thirds (2/3) of the voting interests, is required in order to take a particular action, the section requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to take the action.

22.8 Amendment of Provision Relating to Developer. As long as the Developer holds any Units for sale in the ordinary course of business, no amendment may make any change in any provision relating specifically to the Developer without the Developer's written consent. No amendment may be made which in the Developer's sole judgment may impair or prejudice the rights or privileges of the Developer reserved in the Declaration without the Developer's prior written approval.

22.9 Amendment to Conform to Federal Fair Housing Act. This Condominium shall be in compliance with the provisions of the Fair Housing Act of 1968 as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C., Section 3601-3631 (the "FHAA"). To the extent that the Declaration of Condominium must be amended to comply with the FHAA, the Board of Directors shall amend the Declaration without the necessity of obtaining the approval of Unit Owners as may otherwise be required hereunder or under the Bylaws.



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23. FINES.

23.1 Compliance. Every Unit Owner and his tenants, guests, invitees and agents shall comply with any and all rules and regulations as same exist and as may be adopted in the future by the Board of Directors.

23.2 Enforcement. Failure to comply with such rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums for damages, an action for injunctive relief, or any combination thereof.

23.3 Procedure. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be levied upon a Unit Owner for failure of a Unit Owner, his tenants, family guests, invitees, or employees to comply herewith or with any rules or regulations provided the following procedures are followed:

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

(1) A statement of the date, time and place of the hearing;

(2) A statement of the provisions of the Declaration, By-Laws or rules which have allegedly been violated; and

(3) A short and plain statement of the matters asserted by the Association.

B. Hearing. The party against whom the fine 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 shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

C. Penalties. The Board of Directors may levy a fine against a Unit not to exceed $100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed $1,000.00.

D. Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition of same.

E. Remedy. For non-payment of fines the Association shall have all of the remedies applied by law.

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



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penalty paid by the offending Unit Owner shall be deducted from or offset against any damage which the Association may otherwise be entitled to recover by law.

24. MISCELLANEOUS.

24.1 Severability. The invalidity in whole or in part of any covenant or restriction or any section, subsection, sentence, clause, phrase or word or other provision of this Declaration, the By-Laws, any Rules and Regulations of the Association, and any exhibit attached hereto, shall not affect the remaining portions thereof.

24.2 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.

24.3 Conflicts. If there is a conflict between any provision of this Declaration and the Condominium Act, the Condominium Act shall control. If there is a conflict between this Declaration and the Association's By-Laws or Articles of Incorporation, the Declaration shall control.

24.4 Interpretation. The Board of Directors of the Association shall be responsible for interpreting the provisions of this Declaration and of any of the exhibits attached hereto. Such interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by legal counsel that an interpretation adopted by the Board is not unreasonable shall conclusively establish the validity of such interpretation.

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

24.6 Notices. All notices required to be given under the provisions of this Declaration shall be addressed to the Developer at 7777 Glades Road, Suite 410, Boca Raton, Florida 33434, or wherever the Developer may so designate, and to the Association at 7777 Glades Road, Suite 410, Boca Raton, Florida 33434, and to the Unit Owners at the address of the Unit or the address of the Unit Owner that appears on the current roster of Unit Owners.

IN WITNESS WHEREOF, the Developer has executed this Declaration the day and year first above written.

WITNESSES:

Mary Ellen Gabriel
MARY ELLEN GABRIEL

Emilie Lofgren
EMILIE LOFGREN

The Villages at Emerald Lakes, Inc.,
A Florida Corporation

By: _____
Harry T. Sleek, Senior Vice President

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12/07/93 12:01pm



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STATE OF FLORIDA
COUNTY OF ~~COLLIER~~ Palm Beach

The foregoing instrument was acknowledged before me this 22nd day of August, 19 94 by Harry T. Sleek, as Sr. Vice President of The Villages at Emerald Lakes, Inc., a corporation, on behalf of the corporation. He/she is personally known to me ~~or has produced~~ _____ as identification.

Notary Public

Printed Name

This Instrument Prepared By:

KATHLEEN C. PASSIDOMO ESQ.
HARTER, SECREST & EMERY
800 Laurel Oak Drive, Suite 400
Naples, Florida 33963
(813) 598-4444

OFFICIAL NOTARY SEAL
DEBORAH A PEARSON
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC168502
MY COMMISSION EXP. JAN. 4,1996

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LEGAL DESCRIPTION

ALL OF TRACT 12 OF "EMERALD LAKES AT BRIDGET LAKE UNIT FIVE" ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 18, PAGES 90 THROUGH 91, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA, CONTAINING 2.87 ACRES MORE OR LESS.
BEARINGS ARE ASSUMED AND BASED ON THE WEST LINE OF TRACT 12 BEING SOUTH 01°37'25" EAST.

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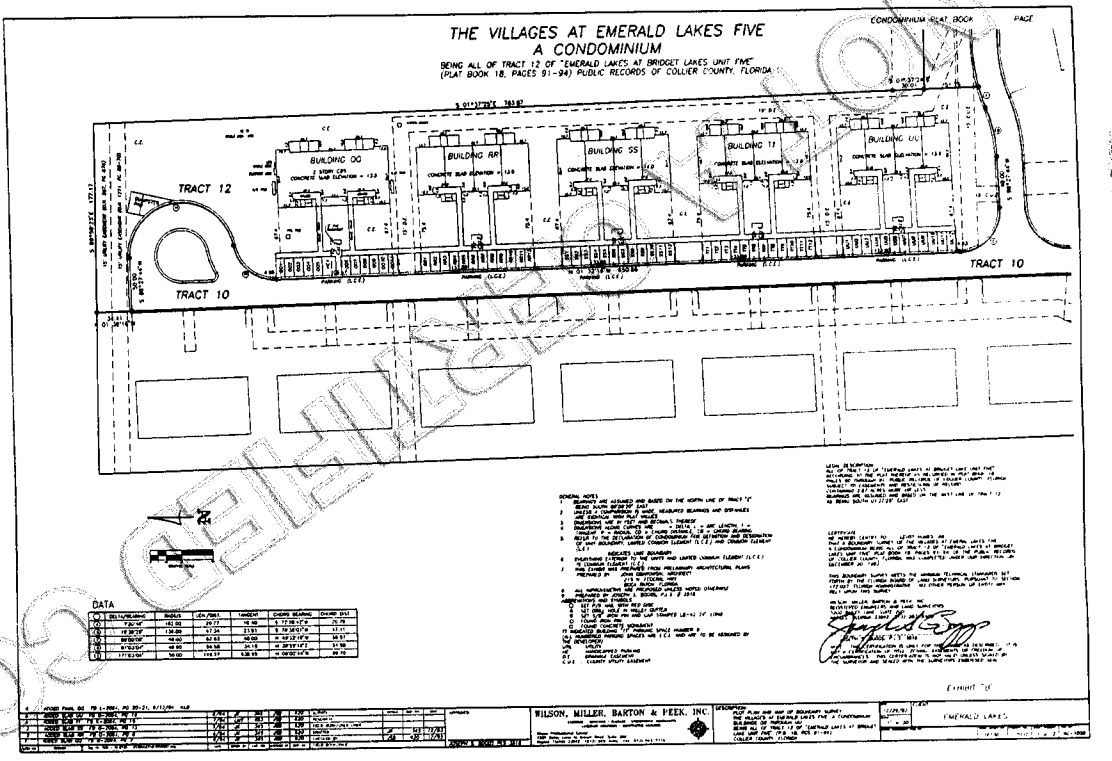
Exhibit "A"




OR: 1987 PG: 0498

CONDOMINIUM PLAT BOOK ..... PAGE ...

# THE VILLAGES AT EMERALD LAKES FIVE, A CONDOMINIUM

BEING ALL OF TRACT 12 OF "EMERALD LAKES AT BRIDGET LAKE UNIT FIVE" (PLAT BOOK 18, PAGES 91 THROUGH 94) COLLIER COUNTY, FLORIDA

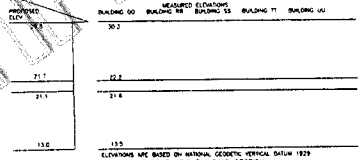
| UNIT | BLDG. | FLOOR | PROPOSED DIMENSION (A) (B) | MEASURED DIMENSION (A) (B) |
|---|---|---|---|---|
| QQ-101 | QQ | 1st | 48.3' 25.8' | 48.3' 25.8' |
| QQ-201 | QQ | 2nd | 48.3' 25.8' | 48.3' 25.8' |
| RR-101 | RR | 1st | 48.3' 25.8' | ..... |
| RR-201 | RR | 2nd | 48.3' 25.8' | ..... |
| SS-101 | SS | 1st | 48.3' 25.8' | ..... |
| SS-201 | SS | 2nd | 48.3' 25.8' | ..... |
| TT-101 | TT | 1st | 48.3' 25.8' | ..... |
| TT-201 | TT | 2nd | 48.3' 25.8' | ..... |
| UU-101 | UU | 1st | 48.3' 25.8' | ..... |
| UU-201 | UU | 2nd | 48.3' 25.8' | ..... |

| UNIT | BLDG. | FLOOR | PROPOSED DIMENSION (A) (B) | MEASURED DIMENSION (A) (B) |
|---|---|---|---|---|
| QQ-103 | QQ | 1st | 48.3' 25.8' | 48.3' 25.8' |
| QQ-203 | QQ | 2nd | 48.3' 25.8' | 48.3' 25.8' |
| RR-103 | RR | 1st | 48.3' 25.8' | ..... |
| RR-203 | RR | 2nd | 48.3' 25.8' | ..... |
| SS-103 | SS | 1st | 48.3' 25.8' | ..... |
| SS-203 | SS | 2nd | 48.3' 25.8' | ..... |
| TT-103 | TT | 1st | 48.3' 25.8' | ..... |
| TT-203 | TT | 2nd | 48.3' 25.8' | ..... |
| UU-103 | UU | 1st | 48.3' 25.8' | ..... |
| UU-203 | UU | 2nd | 48.3' 25.8' | ..... |




TYPICAL BUILDING / UNIT PLAN

0 8 16
SCALE IN FEET




ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM 1929

SCHEMATIC BUILDING SECTION

NOT TO SCALE

| UNIT | BLDG. | FLOOR | PROPOSED DIMENSION (A) (B) | MEASURED DIMENSION (A) (B) |
|---|---|---|---|---|
| QQ-101 | QQ | 1st | 48.3' 25.8' | 48.3' 25.8' |
| QQ-201 | QQ | 2nd | 48.3' 25.8' | 48.3' 25.8' |
| RR-101 | RR | 1st | 48.3' 25.8' | ..... |
| RR-201 | RR | 2nd | 48.3' 25.8' | ..... |
| SS-101 | SS | 1st | 48.3' 25.8' | ..... |
| SS-201 | SS | 2nd | 48.3' 25.8' | ..... |
| TT-101 | TT | 1st | 48.3' 25.8' | ..... |
| TT-201 | TT | 2nd | 48.3' 25.8' | ..... |
| UU-101 | UU | 1st | 48.3' 25.8' | ..... |
| UU-201 | UU | 2nd | 48.3' 25.8' | ..... |

| UNIT | BLDG. | FLOOR | PROPOSED DIMENSION (A) (B) | MEASURED DIMENSION (A) (B) |
|---|---|---|---|---|
| QQ-104 | QQ | 1st | 48.3' 25.8' | 48.3' 25.8' |
| QQ-204 | QQ | 2nd | 48.3' 25.8' | 48.3' 25.8' |
| RR-104 | RR | 1st | 48.3' 25.8' | ..... |
| RR-204 | RR | 2nd | 48.3' 25.8' | ..... |
| SS-104 | SS | 1st | 48.3' 25.8' | ..... |
| SS-204 | SS | 2nd | 48.3' 25.8' | ..... |
| TT-104 | TT | 1st | 48.3' 25.8' | ..... |
| TT-204 | TT | 2nd | 48.3' 25.8' | ..... |
| UU-104 | UU | 1st | 48.3' 25.8' | ..... |
| UU-204 | UU | 2nd | 48.3' 25.8' | ..... |

GENERAL NOTES

1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF
2. REFER TO DECLARATION OF CONDOMINIUM FOR DEFINITION AND DESIGNATION OF UNIT BOUNDARIES, LIMITED COMMON ELEMENT (L.C.E.) AND COMMON ELEMENTS (C.E.).
   ..... INDICATES UNIT BOUNDARY
3. EVERYTHING EXTERIOR TO THE UNITS AND LIMITED COMMON ELEMENT (L.C.E.) IS COMMON ELEMENT (C.E.).
4. THIS EXHIBIT WAS PREPARED FROM PRELIMINARY ARCHITECTURAL PLANS PREPARED BY : JOHN CORRIDORSKI, ARCHITECT
   215 N. FEDERAL HWY
   BOCA RATON, FLORIDA
5. ALL IMPROVEMENTS ARE PROPOSED UNLESS NOTED OTHERWISE.

EXHIBIT "B"

WILSON, MILLER, BARTON & PEEK, INC.

DESCRIPTION
LOT, BUILDING, PLAT AND SCHEMATIC BUILDING SECTION
NOT BUILDING AT EMERALD LAKES FIVE, A CONDOMINIUM
BEING ALL OF TRACT 12 OF "EMERALD LAKES AT BRIDGET LAKE UNIT FIVE" (PLAT BOOK 18, PAGES 91-94)
COLLIER COUNTY, FLORIDA

CLIENT: EMERALD LAKES

| | | | | |
|---|---|---|---|---|
| 19730 | 0110 | 2 of 2 | AC-1005 | |

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# WILSON, MILLER, BARTON & PEEK, INC.

Engineers, Planners, Surveyors, Landscape Architects & Environmental Consultants
Wilson Professional Center, Suite 200, 3200 Bailey Lane at Airport Road, Naples, Florida 33942 • (813) 649-4040 Fax (813) 643-5716


## CERTIFICATE OF SURVEYOR

As to Units QQI01, QQ102, QQ103, QQ104, QQ201, QQ202, QQ203, QQ204, The Villages at Emerald Lakes Five, a condominium being all of Tract 12 of Emerald Lakes at Bridget Lake Unit Five (P.B. 18, pages 91-94) Public Records of Collier County, Florida;

I, JOSEPH S. BOGGS of Naples, Florida, County of Collier and State of Florida, hereby certify as follows:

1. That I am a Professional Land Surveyor authorized to practice in the State of Florida;

2. That this Certificate is made as to Units QQ101, QQ102, QQ103, QQ104, QQ201, QQ202, QQ203, QQ204, The Villages at Emerald Lakes Five, a condominium being all of Tract 12 of Emerald Lakes at Bridget Lake Unit Five (P.B. 18, pages 91-94) Public Records of Collier County, Florida, in compliance with Section 718.104(4)(e) Florida Statutes;

3. That the applicable sheets of WMBS&P Drawing 4G-1006, sheet 1 of 2, sheet 2 of 2 (Exhibit B) together with the provisions of the Declaration that relate to matters of survey, constitute a correct representation of the improvements of said Units as they now exist and there can be determined from them the identification, location, dimensions and size of the common elements of said Units.

4. That all planned improvements, including landscaping, utility services and access to said Units and Common Element facilities serving said Units have been substantially completed.

WILSON, MILLER, BARTON & PEEK, INC.
Reg. Engineers and Land Surveyors

BY _____ DATE 9/15/94
Joseph S. Boggs, P.L.S. #3516

Not valid unless embossed with the Professional's seal.

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 19th day of September, 1994, by JOSEPH S. BOGGS, who is personally known to me and did not take an oath.

BY _____
Notary Public

OFFICIAL NOTARY SEAL
KATHYRN J DYKES
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC391287
MY COMMISSION EXP. JULY 11,1998

NOTARY PUBLIC STAMP
WITH SERIAL NUMBER

8/24/94-01100004.kjs


*Naples*
(813) 649-4040
Fax (813) 643-5716

*Fort Myers*
(813) 939-1020
Fax (813) 939-7479

*Sarasota*
(813) 371-3690
Fax (813) 377-9852



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# State of Florida

## Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., a Florida corporation, filed on August 24, 1994, as shown by the records of this office.

The document number of this corporation is N94000004214.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-ninth day of August, 1994

Jim Smith
Secretary of State

CR2EO22 (2-91)

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EXHIBIT "C"

# ARTICLES OF INCORPORATION

# FOR

# THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC.

In compliance with the requirements of Chapter 617, Florida Statutes, the undersigned all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not-for-profit and do hereby certify:

## ARTICLE I

The name of the corporation, herein called the "Association", is THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., and the corporate office address is 7777 Glades Road, Suite 410, Boca Raton, Florida 33434.

## ARTICLE II

PURPOSE AND POWERS: The purpose for which the Association is organized is to provide an entity pursuant to the Florida Condominium Act for the operation of The Villages at Emerald Lakes Five, A Condominium, located in Collier County, Florida.

The Association is organized and shall exist upon a non-stock basis as a not-for-profit corporation under the laws of the State of Florida, and no portion of any earnings of the Association shall be distributed or inure to the private benefit of any member, Director or officer of the Association. For the accomplishment of its purposes, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit under the laws of the State of Florida, and as provided in these Articles, the Declaration of Condominium, the By-Laws or the Florida Condominium Act; and it shall have all the powers and duties reasonably necessary to operate the condominium pursuant to the Declaration and as it may hereafter be amended, including but not limited to the following:

A. To make and collect assessments against members of the Association to defray the costs, expenses and losses of the condominium, and to use the proceeds of assessments in the exercise of its powers and duties.

B. To maintain, repair, replace and operate the Condominium Property and Association Property.

C. To purchase insurance upon the Condominium Property and Association Property for the protection of the Association, its members, and their mortgagees.

D. To reconstruct improvements after casualty and to make further improvements of the property.

E. To make, amend and enforce reasonable rules and regulations governing the use of the common elements.

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F. To approve or disapprove the transfer, mortgage, ownership and occupancy of units, as provided by the Declaration of Condominium and the By-Laws.

G. To enforce the provisions of the Condominium Act, the Declaration of Condominium, these Articles, and the By-Laws of the Association.

H. To contract for the management and maintenance of the condominium and to delegate any powers and duties of the Association in connection therewith except such as are specifically required by the Declaration of Condominium to be exercised by the Board of Directors or the membership of the Association.

I. To employ accountants, attorneys, architects, and other professional personnel to perform the services required for proper operation of the condominium.

J. To acquire real and personal property in the name of the Association.

K. To collect assessments due from Unit Owners to the Master Association.

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 of Condominium, these Articles of Incorporation and the By-Laws.

## ARTICLE III

MEMBERSHIP:

A. The members of the Association shall consist of all record owners of a fee simple interest in one or more units in the condominium, and as further provided in the By-Laws; after termination of the condominium the members shall consist of those who are members at the time of such termination.

B. After receiving approval of the Association as required by the Declaration of Condominium, change of membership shall be established by recording in the Public Records of Collier County, Florida, a deed or other instrument and by the delivery to the Association of a copy of such instrument.

C. The share of a member in the funds and assets of the Association cannot be assigned, or transferred in any manner except as an appurtenance to his unit.

D. The owners of each unit, collectively, shall be entitled to one vote in Association matters as set forth in the Declaration of Condominium and By-Laws. The manner of exercising voting rights shall be as set forth in the By-Laws.

## ARTICLE IV

TERM: The term of the Association shall be perpetual.



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ARTICLE V

BY-LAWS: The By-Laws of the Association may be altered, amended, or rescinded in the manner provided therein.

ARTICLE VI

AMENDMENTS: Except as otherwise provided by Florida law, these Articles of Incorporation may be amended by vote of a majority of the voting interest at any annual or special meeting, or by approval in writing of the owners of a majority of the units without a meeting, provided that notice of any proposed amendment has been given to the members of the Association, and that the notice contains a copy of the proposed Amendment.

An amendment shall become effective upon filing with the Secretary of State and recording a copy in the Public Records of Collier County, Florida.

ARTICLE VII

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 By-Laws, but not less than three (3) Directors, initially appointed by the Developer, and in the absence of such determination shall consist of three (3) Directors. Except for Directors appointed by the Developer, all Directors must be members of the Association.

B. Directors of the Association shall be elected by the members in the manner determined by the By-Laws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the By-Laws.

C. The business of the Association shall be conducted by the officers designated in the By-Laws. 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 VIII

INCORPORATORS:

The names and addresses of the incorporators are:

Harry Sleek — 7777 Glades Road, Suite 410, Boca Raton, Florida 33434

Karen Cavanaugh — 7777 Glades Road, Suite 410, Boca Raton, Florida 33434



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| | |
|---|---|
| Jeffrey Hoyos | 7777 Glades Road, Suite 410<br>Boca Raton, Florida 33434 |

ARTICLE IX

INITIAL DIRECTORS:

The initial Directors of the Association and their addresses shall be:

| | |
|---|---|
| Harry Sleek | 7777 Glades Road, Suite 410<br>Boca Raton, Florida 33434 |
| Karen Cavanaugh | 7777 Glades Road, Suite 410<br>Boca Raton, Florida 33434 |
| Jeffrey Hoyos | 7777 Glades Road, Suite 410<br>Boca Raton, Florida 333434 |

ARTICLE X

INITIAL REGISTERED AGENT:

The initial registered office of the Association shall be at:

800 Laurel Oak Drive
Suite 400
Naples, Florida 33963

The initial registered agent at said address shall be:

KATHLEEN C. PASSIDOMO

ARTICLE XI

INDEMNIFICATION:

The Association shall indemnify every Director and every officer of the Association against all expenses and liabilities including attorney's fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not apply to:

A. Gross negligence or willful misconduct in office by any Director or officer.



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B. Any criminal action, unless the Director or officer acted in good faith and in a manner he reasonably believed was in, not opposed to, the best interest of the Association, and had no reasonable cause to believe his action was unlawful.

To the extent that a Director or officer has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subsection (1) or subsection (2), or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

WHEREFORE, the incorporators have caused these presents to be executed this 22nd day of August, 1994.

HARRY SLEEK

KAREN CAVANAUGH

JEFFERY HOYOS

STATE OF FLORIDA
COUNTY OF ~~COLLIER~~ Palm Beach

The foregoing instrument was acknowledged before me this 22nd day of August, 1994, by HARRY SLEEK, KAREN CAVANAUGH and JEFFERY HOYOS, who are personally known to me or ~~who have produced~~ _____ as identification.

Notary Public

Deborah A Pearson
Printed Name

OFFICIAL NOTARY SEAL
DEBORAH A PEARSON
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC168502
MY COMMISSION EXP. JAN. 4,1996

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## ACCEPTANCE OF REGISTERED AGENT

Having been named to accept service of process for THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., at the place designated in these Articles of Incorporation, I hereby accept the appointment to act in this capacity and agree to comply with the laws of the State of Florida in keeping open said office.

KATHLEEN C. PASSIDOMO, ESQ.

Dated: August 23 1994

FILED
94 AUG 24 PM 3:52
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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**By-Laws**
**Of**
**The Villages at Emerald Lakes Five Condominium Association, Inc.**
**A Not-for-profit Corporation**

## ARTICLE I
## NAME, LOCATION AND DEFINITIONS

The name of the corporation is THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., a Florida Corporation, not-for-profit, hereafter referred to as the "Association". The principal office of the corporation shall be located at 7777 Glades Road, Suite 410, Boca Raton, Florida 33434, but meetings of members and directors may be held at such places within the State of Florida, County of Collier, as may be designated by the Board of Directors.

The terms used in these By-Laws shall have the meanings as provided in the Declaration of Condominium of The Villages at Emerald Lakes Five, A Condominium.

## ARTICLE II
## MEMBERS AND MEETINGS OF MEMBERS

Section 1. Qualification. Every person or entity who is a record fee simple Owner of a Condominium Unit, including Declarant, at all times so long as it owns all or any part of the property subject to this Declaration, shall be a member of the Association provided that any such person or entity who holds such interest only as security for the performance of an obligation shall not be a member. If an Owner of a Unit is not a natural person, the subject entity shall designate a natural person who shall be the "primary occupant", and such natural person shall exercise that Unit's membership rights. Membership shall be appurtenant to, and may not be separated from ownership of any Unit which is subject to assessment. When any Unit is owned of record by two or more persons or other legal entity, all such persons or entities shall be members.

Section 2. Voting Rights. The members of the Association shall be entitled to one (1) vote for each Unit owned by them. The total votes shall not exceed the total number of Units. The vote of a Unit shall not be divisible. The right to vote may not be denied because of delinquent assessments. If a Condominium Unit is owned by one natural person, his right to vote shall be established by the record title to the Unit. If a Unit is owned jointly by two or more natural persons, that Unit's vote may be cast by any owner present at the meeting at which the vote is taken. If two or more Owners of a Unit are present and cannot agree among themselves how their one vote shall be cast, that vote shall not be counted for any purpose. If the Owner of a Unit is not a natural person, the vote of that Unit shall be cast by the Unit's primary occupant designated as set forth in Section 1 above.

A majority of votes cast in person or by proxy shall be sufficient for corporate action except where provided otherwise in these By-Laws, the Articles or the Declaration.



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Section 3. Change in Membership. A change in membership in the Association shall be established by the recording in the Public Records of Collier County, Florida, a deed or other instrument establishing a record title to a Unit. Thereupon the grantee in such instrument will become a member of the Association and the membership of the prior owner shall thereby be automatically terminated. Upon such transfer of title, the transferee shall notify the Association of such transfer and provide to the Association an address to which all notices and correspondence should be sent. If the said transferee fails to provide such an address, the Association shall mail or deliver all notices and correspondence to the said transferee to the address of the unit.

Section 4. 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 which the Association may have against any former owner or member arising out of or in any way connected with such ownership and membership and the covenants and obligations incident thereto.

Section 5. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held at a date and time as may be determined by the Board each year thereafter.

Section 6. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of 10% of the members who are entitled to vote.

Section 7. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of the Secretary or person authorized to call the meeting, by mailing or delivering a copy of such notice, postage prepaid, at least fourteen (14) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and shall include an agenda. The notice shall also be posted in a conspicuous place on the Condominium Property or Association Property at least fourteen (14) continuous days preceding the meeting, unless there is no Condominium Property or Association Property upon which to post a notice.

Section 8. Quorum. The presence at the meeting of at least one-half of the members entitled to vote in person or by proxy shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, until a quorum as aforesaid shall be present or be represented.

Section 9. Proxies. At all meetings of members, each member may vote in person or by limited proxy except in the election of the Board of Directors. All proxies shall be in writing and filed with the secretary. Any proxy given shall be effective only for the specific meeting



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for which originally given and any lawfully adjourned meetings thereof. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his unit. In no event shall a proxy be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given.

Section 10. Adjourned Meetings. If a quorum is not present at any duly called meeting of the members, the majority of the voting interests present shall adjourn the meeting to a later date when a quorum may be obtained. When a meeting is adjourned notice of the time and place of its continuance shall be given as provided in Section 7 therein.

Section 11. Order of Business. The order of business at member's meetings shall be substantially as follows:

A. Call of the roll and certification of quorum and proxies.
B. Proof of notice of meeting or waiver of notice.
C. Reading and disposal of any unapproved minutes.
D. Reports of Officers.
E. Reports of Committees.
F. Election of Directors.
G. Unfinished Business.
H. New Business.
I. Adjournment.

Section 12. Minutes. Minutes of all meetings of members and of the Board of Directors shall be kept in a businesslike manner and available for inspection by members or their authorized representatives and Board members at all reasonable times and for a period of seven (7) years after the meeting.

Section 13. Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, or with the Declaration of Condominium or these By-Laws.

Section 14. Action by Members Without Meeting. Any action required or permitted to be taken at a meeting of the members (except the annual meeting and a meeting at which a vote is taken to waive or fund reserves), may be taken without a meeting if written consents, setting forth the action to be taken, are signed by the members having not less than the minimum number of votes that would be necessary to take such action at a meeting, or a majority of the total votes of the entire membership, whichever is greater. Upon receiving the requisite number of written consents, the Board of Directors may take the authorized action upon adopting a resolution to that effect. Within ten (10) days after adopting the resolution, the Board shall send written notice of the action taken to all members who have not consented in writing. Nothing in this paragraph shall be construed in derogation of members' rights to call a special meeting of the membership as elsewhere provided in these By-Laws.

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## ARTICLE III
## BOARD OF DIRECTORS: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of at least three (3) directors initially appointed by the Developer.

Section 2. Term of Office. Each director elected by the Members shall hold office for a term of one (1) year.

Section 3. Removal.

A. Directors elected or appointed by unit owners other than the Developer may be removed from the Board, with or without cause, by a majority vote of the unit owners other than the Developer, in person or by proxy. For the purposes of establishing percentages of voting interests, and establishing a quorum, only units owned by unit owners other than a Developer shall be counted.

B. Directors elected or appointed by the Developer may be removed from the Board, with or without cause, only by the Developer.

Section 4. Replacement.

A. If a vacancy occurs on the Board of Directors as a result of a recall by Unit Owners and less than a majority of the Members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining Directors. If vacancies occur on the Board of Directors as a result of a recall by Unit Owners and a majority or more of the Members are removed, the vacancies shall be filled pursuant to Chapter 718 of the Florida Statutes.

B. Subject to the provisions of Article III of these By-Laws, a vacancy in the Board previously occupied by an appointee of the Developer shall be filled as follows: Only the Developer may vote to fill said vacancy. In which case a quorum for purposes of that vote shall consist of a majority of units owned by the Developer. A vacancy, other than as a result of a recall, on the Board previously occupied by a Board member elected or appointed by Unit Owners other than the Developer shall be filled as follows: Only the Unit Owners other than the Developer may vote to fill said vacancy. In which case, a quorum for purposes of that vote shall consist of a majority of Unit Owners other than the Developer.

Section 5. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.



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## ARTICLE IV
## ELECTION OF DIRECTORS

Section 1. Notice and Election. The Board of Directors shall be elected by written ballot or voting machine. Proxies shall in no event be used in electing the Board of Directors in general elections. However, limited proxies may be used to fill vacancies caused by recall. Not less than sixty (60) days before a scheduled election, the Association shall mail or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, to each Unit Owner entitled to vote, a first notice of the date of the election. The Board shall hold a meeting within 5 days after the deadline for a candidate to provide notice to the Association of intent to run. At this meeting, the Board shall accept additional nominations. Any Unit Owner or other eligible person may nominate himself or may nominate another Unit Owner or eligible person, if he has permission in writing to nominate the other person. Any Unit Owner or other eligible person desiring to be a candidate for the Board of Directors must give written notice to the Association not less than forty (40) days before a scheduled election. Not less than thirty (30) days before the election, the Association shall mail or deliver a second notice of the election to all Unit Owners entitled to vote therein, together with a ballot which shall list all candidates. Upon request of a candidate, the Association shall include an information sheet, not larger than 8½ inches by 11 inches, which must be furnished by the candidate not less than 35 days before the election, to be included with the mailing of the ballot, with the costs of mailing and copying to be borne by the Association. Elections shall be decided by a plurality of those ballots cast. There shall be no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election of members of the Board of Directors. No Unit Owner shall permit any other person to vote his ballot, and any such ballots improperly cast shall be deemed invalid. Any Unit Owner violating this provision may be fined by the Association in accordance with Chapter 718 of the Florida Statutes. The regular election shall occur on the date of the annual meeting. Notwithstanding the provisions of this subparagraph, an election and balloting are not required unless more candidates file notices of intent to run or are nominated than vacancies exist on the Board.

## ARTICLE V
## MEETINGS OF DIRECTORS AND COMMITTEES

Section 1. Meetings. Meetings of the Board of Directors and any committee thereof at which a quorum of the members of that committee are present shall be open to all Unit Owners. Any Unit Owner may tape record or videotape meetings of the Board of Directors. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The Association shall adopt reasonable rules governing the tape recording and videotaping of the meeting and the frequency, duration, and manner of Unit Owner statements.

Section 2. Notice. Adequate notice of all meetings, which notice shall specifically incorporate an identification of agenda items, shall be posted conspicuously on the Condominium Property at least 48 continuous hours preceding the meeting except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus



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one of the members of the Board. Such emergency action shall be noticed and ratified at the next regular meeting of the Board. However, written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use will be considered, shall be mailed or delivered to the Unit Owners and posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. Evidence of compliance with this fourteen (14) day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the Association. Upon notice to the Unit Owners, the Board shall by duly adopted rule designate a specific location on the Condominium Property or Association Property upon which all notices of Board meetings shall be posted. If there is no Condominium Property or Association Property upon which notices can be posted, notices of board meetings shall be mailed or delivered at least 14 days before the meeting to the owner of each unit. Notice of any meeting in which regular assessments against Unit Owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VI
## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Power. The Board of Directors shall have power to:

A. Adopt and publish rules and regulations governing the use of the Common Elements and facilities, and the personal conduct of the members, tenants and their guests thereon, and to establish penalties and fines for the infraction thereof;

B. Exercise for the Association all powers, duties and authorities vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration of Condominium;

C. Declare the office of any member of the Board of Directors to be vacant in the event such member shall be absent for three (3) consecutive regular meetings of the Board of Directors;

D. Employ a manager, an independent contractor, or such employees as they may deem necessary and to prescribe their duties; and

E. 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 and as proscribed by these By-Laws and the Declaration.

Section 2. Duties. It shall be the duty of the Board of Directors to:



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A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting when such statement is requested in writing by one-tenth (1/10) of the members who are entitled to vote;

B. Supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

C. As more fully provided in the Declaration to: (1) fix the amount of the annual assessment against each unit at least thirty (30) days in advance of each annual assessment period; (2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days in advance of each annual assessment period; and (3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same;

D. Issue, or to cause an appropriate officer to issue, upon demand by a person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

E. Procure and maintain adequate liability, hazard, and other types of insurance on property owned or maintained by the Association;

F. Cause all officers or employees having fiscal responsibilities to be bonded, as and if they may deem appropriate and as required by law;

G. Cause the Common Elements to be maintained;

H. Prepare the annual budget;

I. Respond to a Unit Owner's written complaint which has been delivered by certified mail, within thirty (30) days of the complaint. The Board of Directors shall give a substantive response to the complainant, notify the complainant that a legal opinion has been requested, or notify the complainant that advice has been requested from the Division. The failure to act within 30 days and to notify the Unit Owner within 30 days after the action taken precludes the Board from recovering attorney's fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the complaint.

J. Perform or act upon anything else required by law.



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## ARTICLE VII
## OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and shall hold office for one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article, however, no person shall simultaneously hold the office of President and Secretary.

Section 8. Duties. The duties of the officers are as follows:

### PRESIDENT

A. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, promissory notes and checks.

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VICE-PRESIDENT

B. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act; and shall exercise and discharge such other duties as may be required of him by the Board.

SECRETARY

C. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members, keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of members; keep appropriate current records showing the members of the Association together with their addresses and shall perform such other duties as required by the Board.

TREASURER

D. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Board; and deliver a copy of each to the members.

## ARTICLE VIII
## BOOKS AND RECORDS

Section 1. Inspection by Members. The official records of the Association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The Association may adopt reasonable rules regarding the frequency, time, location, notice and manner of record inspections and copying. The Association shall maintain an adequate number of copies of the Declaration, Articles of Incorporation, By-Laws and Rules, and all amendments to each of the foregoing, as well as the Question and Answer Sheet provided for in Florida Statute {718.504 on the condominium property to ensure their availability to unit owners and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same.

## ARTICLE IX
## FISCAL MATTERS AND ASSESSMENTS

Section 1. Assessments. As more fully provided in the Declaration, each member is obligated to pay to the Association assessments which are secured by a continuing lien upon the property against which the assessment is made. Assessments shall be paid not less frequently than quarterly in the discretion of the Board. Assessments shall be collected against Unit Owners in the proportions as provided in the Declaration. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due



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date, the assessment shall bear interest from the date of delinquency at the highest rate as allowed by law. In addition, the Association may charge an administrative late fee, not to exceed the greater of $25.00 or 5% of each delinquent installment. Payments on account of delinquent assessments shall first be applied to interest, then to late fees, then to costs and attorneys fees and then to the delinquent payment. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Unit, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his Condominium Unit.

Section 2. Bank Accounts. The Association shall maintain its accounts in such 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.

Section 3. Budget. The Board of Directors shall, prior to the end of the fiscal year, adopt an annual budget for common expenses for the next fiscal year. A copy of the budget and notice of meeting shall be mailed to or served on all the unit owners not less than fourteen (14) days prior to the meeting at which the budget will be adopted. The notice shall also be posted conspicuously on the Condominium Property not less than fourteen (14) days prior to the meeting. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications, and other items as provided in Chapter 718 of the Florida Statutes.

Section 4. Reserves for Capital Expenditures and Maintenance. In addition to annual operating expenses, the proposed budget must include reserve accounts for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by a formula based upon estimated life and replacement cost of each item, and such formula shall be set forth on the proposed budget. These reserves shall be funded unless the members subsequently determine by majority vote of those present in person or by proxy at a duly called meeting to fund no reserves or less than adequate reserves for a fiscal year. The vote to waive or reduce reserves, if any is taken, may be taken only after the proposed budget has been mailed to the Unit Owners as required above. However, prior to turnover of control of the Association by the Developer to Unit Owners other than a Developer, the Developer may vote to waive the reserves for the first two years of the operation of the Association, after which time reserves may only be waived or reduced upon the vote of a majority of nondeveloper voting interests present at a duly called meeting of the Association. Reserve funds and any interest accruing thereon shall remain in the reserve account for authorized reserve expenditures, unless their use for other purposes is approved in advance by a vote of the majority of the voting interests present at a duly called meeting of the Association.

Section 5. General Maintenance Reserves. In addition to the statutory reserves provided above, or in place of them if the members so vote, the Board may establish one or more



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additional reserve accounts for general operating expenses, repairs, minor improvements or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments on a frequent basis. The amounts proposed to be so reserved shall be shown in the proposed annual budget each year. These funds may be spent for any purpose approved by the Board.

Section 6. Fidelity Bonds. The Association shall obtain and maintain adequate fidelity bonding of all persons who control or disburse funds of the Association. As used in this section, the term "persons who control or disburse funds of the Association" means those individuals authorized to sign checks, and the President, Secretary and Treasurer of the Association. If the Association's annual gross receipts do not exceed $100,000.00, the bond shall be in the principal sum of not less than $10,000.00 for each such person. If the Association's annual gross receipts exceed $100,000.00, but do not exceed $300,000.00, the bond shall be in the principal sum of $30,000.00 for each such person. If the Association's annual gross receipts exceed $300,000.00, the bond shall be in the principal sum of not less than $50,000.00 for each such person. The Association shall bear the cost of bonding.

Section 7. Financial Information. Not later than sixty (60) days after the close of each fiscal year, the Board shall cause to be prepared a financial statement showing in reasonable detail the financial condition of the Association as of the close of its fiscal year and an income and expense statement for the year, detailed by accounts and as required by Chapter 718 of the Florida Statutes. Copies of these statements shall be furnished to each member. If called for by a majority of the voting interest present at any meeting, the Board shall present a full and clear statement of the business and condition of the Association.

Section 8. Commingling. All funds shall be maintained separately in the Association's name. Reserve and operating funds of the Association may be commingled for purposes of investment, but separate ledgers must be maintained for each account. No manager or business entity required to be licensed or registered under Chapter 468.432 of the Florida Statutes and no agent, employee, officer, or director of the Association shall commingle any Association funds with his funds or with the funds of any other condominium association or community association as defined in Chapter 468.431 of the Florida Statutes.

Section 9. Application of Payments. All payments on account by a unit owner shall be applied first to interest, then to any administrative late fee, then to costs and attorney's fees incurred in collection and then to the delinquent assessment.

Section 10. Fines. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be levied upon a Unit Owner for failure of a Unit Owner, his tenants, family guests, invitees, or employees to comply herewith or with any rules or regulations provided the following procedures are followed:

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



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(1) A statement of the date, time and place of the hearing;

(2) A statement of the provisions of the Declaration, By-Laws or rules which have allegedly been violated; and

(3) A short and plain statement of the matters asserted by the Association.

B. The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.

C. Penalties. The Board of Directors may levy a fine against a Unit not to exceed $100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed $1,000.00.

D. Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition of same.

E. Remedy. For non-payment of fines, the Association shall have all of the remedies allowed by Law.

F. Non-Exclusive Remedy. The fines provided for herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Unit Owner shall be deducted from or offset against any damage which the Association may otherwise be entitled to recover by law.

## ARTICLE X
## CORPORATE SEAL

Section 1. Form. The Association shall have a seal in circular form having within its circumference the words THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., a Florida Corporation, not-for-profit, and the year 199__.

## ARTICLE XI
## AMENDMENTS

Section 1. Vote. These By-Laws may be amended at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy.

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



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## ARTICLE XII
## TRANSFER OF ASSOCIATION CONTROL; DEVELOPER'S RIGHT

Section 1. Members' Rights to Elect Board of Directors. When owners other than the Developer own fifteen percent (15%) or more of the Units, the Owners other than the Developer shall be entitled to elect one-third (1/3) of the members of the Board of Directors. Unit Owners other than the Developer are entitled to elect not less than a majority of the members of the Board:

A. Three (3) years after fifty percent (50%) or more of the Units have been conveyed to purchasers;

B. Three (3) months after ninety percent (90%) or more of the Units have been conveyed to purchasers;

C. When all of the Units have been completed, some of the Units conveyed to purchasers and none of the others are being offered for sale by the Developer in the ordinary course of business;

D. When some of the Units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the Developer in the ordinary course of business; or

E. Seven years after recordation of the Declaration of Condominium, or in the case of an association which may ultimately operate more than one condominium, 7 years after recordation of the declaration for the first condominium it operates, or in the case of an association operating a phase condominium created pursuant to Chapter 718 of the Florida Statutes, 7 years after recordation of the declaration creating the initial phase.

whichever occurs first. The Developer shall be entitled to elect at least one member of the Board as long as it holds for sale in the ordinary course of business at least five percent (5%) of the Units.

Section 2. Developer's Rights So long as the Developer holds Units for sale in the ordinary course of business, none of the following actions may be taken without approval in writing by the Developer.

A. Any amendment to the Condominium Documents which would adversely affect the Developer's rights.

B. Any action by the Association that would be detrimental to the sales of Units by the Developer. However, an increase in assessments for common expenses shall not be deemed to be detrimental to the sales of Units.

Section 3. Transfer of Association Control. Prior to, or not more than seventy-five (75) days after, the time that Unit Owners other than the Developer are entitled to elect a majority



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of the Directors of the Association, the Developer shall relinquish control of the Association, and the Unit Owners shall accept control. Simultaneously, the Developer shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by the Developer and all items and documents that the Developer is required to deliver or turn over to the Association under Florida law. The Developer may turn over control of the Association to Unit Owners other than the Developer prior to the above mentioned dates, in its sole discretion, by causing all of its appointed Directors to resign, whereupon it shall be the affirmative obligation of Unit Owners other than the Developer to elect Directors and assume control of the Association. Provided at least sixty (60) days' notice of Developer's decision to cause its appointees to resign is given to Unit Owners, neither the Developer, nor such appointees, shall be liable in any manner in connection with such resignations even if Unit Owners other than the Developer refuse or fail to assume control.

## ARTICLE XIII
## MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year or as determined from time to time by the Board.

Section 2. Arbitration. Internal disputes arising from the operation of the Condominium among Unit Owners, the Association, their agents and assigns shall be resolved by mandatory non-binding arbitration under the provisions of Chapter 718 of the Florida Statutes.

Section 3. Fines. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be levied upon a Unit Owner for failure of a Unit Owner, his tenants, family guests, invitees, or employees to comply herewith or with any rules or regulations, provided the following procedures are followed:

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

(1) A statement of the date, time and place of the hearing;

(2) A statement of the provisions of the Declaration, By-Laws or rules which have allegedly been violated; and

(3) A short and plain statement of the matters asserted by the Association.

B. The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association.



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C. Penalties. The Board of Directors may levy a fine against a Unit not to exceed $100.00 per violation. However, a fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, provided that no such fine shall in the aggregate exceed $1,000.00.

D. Payment of Penalties. Fines shall be paid not later than five (5) days after notice of the imposition of same.

E. Remedy. For non-payment of fines the Association shall have all of the remedies applied by law.

F. Non-Exclusive Remedy. The fines provided for herein shall not be construed to be an exclusive remedy of the Association, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any penalty paid by the offending Unit Owner shall be deducted from or offset against any damage which the Association may otherwise be entitled to recover by law.

Section 4. Certificate of Compliance. The Board of Directors may accept a certificate of compliance from a licensed electrical contractor or electrician as evidence of compliance of condominium units to the Condominium Fire and Life Safety Code.

IN WITNESS WHEREOF, we, being all of the directors of THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., a Florida corporation not for profit have hereunto set our hands this 22nd day of August, 19 94.

HARRY SLEEK

KAREN CAVANAUGH

JEFFERY HOYOS

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## CERTIFICATION

I, THE UNDERSIGNED, DO HEREBY CERTIFY:

THAT I am the duly elected and acting Secretary of THE VILLAGES AT EMERALD LAKES FIVE CONDOMINIUM ASSOCIATION, INC., a Florida Corporation, not-for-profit, and

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 22nd day of August, 19 94

Harry T. Sleek

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