

CONSOLIDATION  
OF  
DECLARATION  
OF  
PROTECTIVE PROPERTY RIGHTS  
AND RESTRICTIONS  
OF  
HOLLEY BY THE SEA  
AND  
HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC.

As recorded in Official Record Book 246, Page 463 through 485, of the Public Records of Santa Rosa County, Florida.

WITH AMENDMENTS

As recorded in Official Records Book 282, at page 687, Official Records Book 664, at page 343, Official Records Book 693, at page 234, Official Records Book 739, at page 15, Official Records Book 960, at page 559, and Official Records Book 1048, at page 389, of the Public Records of Santa Rosa County, Florida.

**July 1998**

For a verbatim transcript, refer to the Public Records.

## DECLARATION

THIS DECLARATION, (herein called the "Declaration") made this 23<sup>rd</sup> day of January 1972, by (HOLLEY BY THE SEA, INC., a Florida Corporation) trading and doing business as HOLLEY BY THE SEA (hereinafter called the "Subdivider").

### WITNESSETH:

WHEREAS, the Subdivider is the Owner of the real property described as Holley by the Sea according to the plat thereof recorded in Plat Book B, page 155, on May 26, 1971, (First Corrected and Amended Plat of Holley By The Sea recorded in Plat Book C, page 166, and Second Corrected and Amended Plat of Holley By The Sea recorded in Plat Book C, page 183), in the Public Records of Santa Rosa County, Florida, as well as those certain properties more particularly described in Exhibit "A" attached hereto and desires there be created thereon a residential community with permanent parks, playgrounds, open spaces and other common facilities for the benefit of said community, including commercial areas; and

WHEREAS, Subdivider desires to provide for the preservation of the values and amenities in said community and for the construction, reconstruction and maintenance of said parks, playgrounds, open spaces, roads, drainage and other common facilities, public and private; and, to this end desires to subject the subdivision known as Holley By The Sea and the real property described in Exhibit "A" (together with such additions as may hereafter be made thereto as provided herein) to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Subdivider has deemed it desirable, for the efficient preservation of the values and amenities in the said community, to create and has created a corporate entity to which will be delegated and assigned the powers of constructing, reconstructing, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Subdivider has incorporated under the laws of the State of Florida, as a not for profit corporation, HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC., for the purpose of exercising the functions aforesaid:

NOW THEREFORE, the Subdivider declares that the real property known as HOLLEY BY THE SEA and those properties more particularly described in Exhibit "A" and such additions thereto as may hereafter be made pursuant to Article II, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereafter set forth.

## ARTICLE 1

### DEFINITIONS

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC., a Florida not for profit corporation heretofore organized and as referred to in the Recitals of this Declaration.
- (b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II.
- (c) "Common Properties" shall mean and refer to the property described in Exhibit "B," attached hereto and made a part hereof, and those areas of land shown on any recorded subdivision plat of HOLLEY BY THE SEA and additions thereto which are intended to be devoted to the common use and enjoyment of the Owners, including, but not limited to, parks, ponds, lakes, canals, recreational areas, roads, drainage facilities, and utility site, if any, except that it shall not include (i) any platted lot unless the Association is the Owner thereof, and (ii) any property which has been dedicated to, accepted and agreed to be maintained by any public authority or body, and (iii) Tracts A, B, C, D, E, F, G and H, Holley By The Sea, First Addition, according to the plat thereof, recorded in Plat Book E, Page 15, of the Public Records of Santa Rosa County, Florida, which are not subject to this Declaration. Common Properties shall not include any real property or personal property owned by the Association.
- (d) "Lots" shall mean and refer to any platted lot shown upon any recorded subdivision map of HOLLEY BY THE SEA with the exception of Common Properties as heretofore defined.
- (e) "Structure" shall mean any construction and improvements not otherwise specifically described and includes, but is not limited to, parts and additions to buildings, cisterns, walls, fences and other enclosures, television and other antennas, walks, driveways, seawalls, docks, and boat landing platforms.
- (f) "Owner" shall mean and refer to the record owner or owners, whether one or more persons or entities, of the fee simple title to any lot except that where a lot is being sold by Subdivider under an Agreement for Deed, the buyer thereunder, and not the Subdivider, shall be deemed to be the Owner. (This definition is confined solely to the purpose of this Declaration).

(g) "Subdivider" means CAM Corporation, a Florida corporation, trading and doing business in Santa Rosa County as HOLLEY BY THE SEA, its successors and assigns.

(h) "Hidden Creek Estates Articles" shall mean and refer to the Articles of Incorporation of the Hidden Creek Estates Property Owners Association, Inc.

(i) "Hidden Creek Estates By-Laws" shall mean and refer to the By-Laws of the Hidden Creek Estates Property Owners Association, Inc.

(j) "Hidden Creek Estates Declaration" shall mean and refer to the Declaration of Covenants and Restrictions for Hidden Creek Estates as recorded in Official Records Book 950, Page 195, of the Public Records of Santa Rosa County, Florida.

(k) "Hidden Creek Estates Property" shall mean and refer to the following legally described property: Holley By The Sea, First Addition, LESS & EXCEPT Tracts A, B, C, D, E, F, G and H, according to the plat thereof, recorded in Plat Book E, Page 15, of the Public Records of Santa Rosa County, Florida, as same may be added to from time to time pursuant to the Hidden Creek Estates Declaration.

(l) "Woodmont Estates" shall mean and refer to that property legally described as Woodmont Estates in Exhibit "C" to this Declaration.

(m) "Palmetto Ridge" shall mean and refer to that property legally described as Palmetto Ridge in Exhibit "A" to this Declaration.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION

#### AND ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Santa Rosa County, Florida, and is more particularly described as HOLLEY BY THE SEA and those properties more particularly described in Exhibit "A".

Section 2. Additional Property. So long as Subdivider shall be entitled to all of the voting rights of the Association pursuant to Article III of this Declaration, Subdivider shall have the exclusive right, at its option, to subject additional property to this Declaration. In addition, the Members may at any time hereafter, amend this Declaration and add thereto other property upon such terms and conditions as they may approve.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a Member of the Association, provided that the Subdivider shall, in any event, be a Member of the Association so long as it has any voting rights under this Article.

Section 2. Voting Rights. Until such time as the Subdivider has conveyed of record 75% of the total lots included in The Properties to others, the Subdivider shall have all of the voting rights of the Association; and the other Members and Owners shall not be entitled to notice of or to vote at any meeting of Members or to any other notice hereunder or to otherwise participate in any action taken under this declaration. Upon Subdivider having so conveyed 75% of such lots, each lot, including these lots still owned by the Subdivider, shall be entitled to one vote, per lot, and be cast by the Owner thereof. In the event that the Owner of any lot is comprised of more than one person or entity, such persons or entities shall determine as between themselves how the vote for such lot is to be voted but shall never be any fractional voting with respect to any lot nor more than one vote per lot hereunder.

Should more than one lot as shown on the plat of HOLLEY BY THE SEA be used as a single building site, these restrictions and the voting rights set forth herein shall apply as though the entire building site was one lot.

## ARTICLE IV

### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Member's Easements of Enjoyment. Subject to the provisions of Section 3 of this Article, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every lot.

Section 2. Title to Common Properties. The Subdivider may retain the legal title to any of the Common Properties until such time as, in the opinion of the Subdivider, the Association is able to maintain the same but, notwithstanding any provision herein, the Subdivider hereby covenants for itself, its successors and assigns that it shall convey the Common Properties to the Association and will agree to pay any encumbrances thereon existing at the time of such conveyance, according to their tenor, excepting taxes and assessments, general and special.

Section 3. Extent of Member's Easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to suspend the enjoyment rights of any Member for any period of during which any assessment remains unpaid, and for any infraction of its published rules and regulations; and

(b) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

- a. The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency or authority or to any utility (public or private) for such purposes and subject to such conditions as it may determine, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless approved by a vote of the membership in accord with the By-Laws of the Association.

Section 4. Restriction on Easements of Enjoyment. Where there are Multiple Owners of Lots. As to lots owned by two or more persons, the owners of such lot shall designate one owner who may have the benefit of the easements of enjoyment provided for in Section 1, above ("Easements of Enjoyment"). Such designation shall be made in writing and filed with the Association. In the event the property is leased, the designated owner may, in their place, designate their tenant or tenants (so long as the number of tenants does not exceed the number of bedrooms in the residence) as the party or parties having the benefit of the easement of enjoyment reference above. Provided, however, that where the owners of the lot are members of the same immediate family, all members of the immediate family shall have the rights to the Easements of Enjoyment. For purposes of the Section, "designated owner" shall include members of the owner's immediate family. "Immediate family" for purposes of the Section shall mean husband, wife and children under age 25 residing in the household.

## ARTICLE V

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien for Assessments. Each Owner by acquiring any ownership interest in a lot hereby covenants and agrees to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare

of the residents in The Properties and in particular for the construction, improvement, replacement, reconstruction and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the residences situated upon The Properties, including, but not limited to, the payment of taxes and insurance, as to the Common Properties, and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof, being the parks, playgrounds, open spaces, roads, drainage and other Common Facilities. This shall be an obligation of the Association, at least until the Association is relieved of any such obligation by governmental authority, e.g., relieved of the maintenance of roads by the County assuming the maintenance thereof. Proviso. Even if the Association is so relieved of such obligation, the Association may nonetheless elect to perform such obligation concurrently with or instead of the governmental authority, and any expenditures in connection with same shall be a common expense of the Association. Furthermore, the Association shall be permitted (but not obligated) to maintain, repair and replace any property which is dedicated to any governmental authority or taxing district, as a common expense, even though the property is not part of the Common Properties.

Section 3. Basis of Annual Assessments. The annual assessment shall be established by the Board of Directors of the Association in accordance with the By-Laws. In establishing the annual assessment, the Board may consider current management and maintenance costs and the future needs of the Association.

Any change in the annual assessment from that made in the prior year, to be effective and binding on the Owner, must be communicated to the Owner, in writing at least sixty (60) days before the annual assessment is due.

The annual assessment will be imposed against unsold lots owned by the Subdivider on the same basis as it is imposed against lots of other Owners.

Section 4. Special Assessment for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, the Association may levy in any assessment year a special assessment, applicable to that year only, but which may be payable annually over a period not to exceed five years, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement upon the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessments shall be approved by a vote of the members as provided for in the By-Laws of the Association.

Provided, however, that any portion of the annual assessment referred to in Section 3 above which has not been fully utilized during a particular calendar year, shall be applied to that portion of Special Assessment for Capital Improvement which may be due from the Subdivider under this section; and provided further, however, that the Subdivider's responsibility with respect to Special Assessments shall be limited up to the sum of \$15.00 per lot per year, measured by the number of lots not yet sold whether by Deed or Agreement for Deed, i.e. those lots still owned by the Subdivider.

The due date of any Special Assessment under Section 4 shall be fixed in the resolution authorizing such Assessment.

Section 5. Duties of the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment, annual or special, may be sent to every Owner subject thereto at the discretion of the Board of Directors.

The Association shall, upon reasonable demand at any time, furnish to any Owner liable for said assessment, a certificate in writing signed by an Officer of the Association, setting forth whether the said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6. Effect of Non-Payment of Annual or Special Assessment; The Lien; Remedies of Association. If the assessments, annual or special, are not paid on the date when due, then such assessment shall become delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owners, his heirs, devisees, personal representatives, successors and assigns, but subject only to institutional first mortgages existing at the time the assessment becomes a lien.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date due until paid at the highest rate of interest then allowed by law, or at such lesser rate as established by the Board of Directors from time to time, and the Association may foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee together with all costs or other expenses incurred by the Association with respect to such action.

Section 7. Exempt Property. The following property subject to this declaration shall be exempted from the assessment, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local authority and devoted to public use; (b) all Common Properties;

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure or improvement shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and

specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing, as to harmony of structures and topography, by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee, fail to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, then approval will not be required and this Article will be deemed to have been fully complied with. Refusal or approval of the plans and specifications may be based on engineering, architectural or purely aesthetic grounds.

The Board shall be authorized and empowered to establish reasonable rules, standards, regulations, and procedures necessary or desirable for the proper performance of the rights, powers and duties of the Board, and each Owner shall abide by such rules, regulations, standards and procedures.

Neither the Association nor the Board, nor any member thereof, shall be responsible for structural or other defects of any kind or natures whatsoever in any plans or specifications submitted to the Board and/or improvements constructed as a result of plans submitted to the Board, nor shall they, or any of them, be deemed to have assumed any liability with regard to any undertaking by consequence of its enactment and enforcement of or failure to enact or enforce minimum standards for such improvement, and no act or omission shall be construed to impose any liability on the Association, the Board or any member thereof, for damages which any Owner may sustain. Each Owner shall, in each instance, be responsible for the safety and quality of the improvement constructed or erected by or for said Owner. It is understood that the standards imposed by these restrictions and the Board are in all cases minimum standards.

The Board shall be authorized to grant variances or exceptions from any of the rules, standards, regulations and procedures established by it or the restrictions herein contained, where, owing to existing or special conditions and circumstances, a literal enforcement of the provisions thereof would result in hardship, provided said variance or exception does not adversely affect the uniform development and quality of HOLLEY BY THE SEA. In creating any variance or exception, the Board may prescribe any conditions and safeguards which, when made a part of the terms under, which such variances or exceptions are granted, shall not be deemed a violation of these restrictions. Building permits shall be obtained by the county or other governmental agencies having jurisdiction thereof.

The Board shall require that a \$2,000 performance bond, or \$2,000 cash or certified check bond deposited with the Association (cash or certified check shall be deposited in an interest bearing account), naming the builder as the principal on the bond, and the Association as the beneficiary, be posted prior to the commencement of construction of any residential structure at Holley by the Sea, provided, however, that no builder shall be required to post bonds (cash or surety) in excess of \$10,000 at any given time. The bond shall include within its operative language the following condition:

"The condition of the bond shall be that the principal and surety bind themselves, jointly and severally, to build the structure within one year, to build the structure as shown in the plans and specifications approved by the Association or its designee, and to otherwise comply with all covenants, restrictions, rules and regulations of the Association, whether recorded or unrecorded, that are in force as of the date of issuance of the bond; otherwise, the bond's penal sum shall be forfeited to the Association." Upon compliance with this condition, the obligation of the surety shall be at an end. In the event of a cash or cashiers check bond, the bond sum shall be refunded.

Sec. 2. Regulation of Builders. The Board of Directors of the Association shall have the authority to regulate construction to assure that the covenants, rules and regulations of the Association are maintained. This authority shall include, without limitation, the authority to deny approval to build at Holley to any builder (whether a licensed contractor building for an owner, or an owner acting as the contractor) who either; (1) owes money to the Association as the result of non-payment of assessments, levies or fines, including amounts owed as a result of prior violations of the Association's rules and regulations, or (2) who has shown a disregard for the rules and regulations of the Association. The authority to withhold approval from plans submitted by such builders, or submitted on projects for which such builders have been hired, shall be within the sole discretion of the Board of Directors. This section shall be enforceable by the Association through injunctive relief, specific performance and/or an action for damages. Any expenditure by the Association in enforcing this section shall subject the Property of the Owner who is not in compliance to a lien which can be foreclosed, and the Association shall be entitled to recovery of all attorneys fees and all costs in the event it is required to obtain legal representation to enforce this or other provisions of these Covenants, whether before, during or after the filing of a complaint, including all fees and costs incurred on any appeal. The attorneys fees incurred shall also constitute a lien against the Property of the person or persons violating this or other sections of these Covenants.

## ARTICLE VII

### GENERAL RESTRICTIONS AND COVENANTS

#### LAND USE AND BUILDING TYPE

Section 1. Utilities Reservation. Subdivider shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and the use of drains, sewer systems, sanitary storm sewers, water mains, electric and telephone lines and other utilities, and to give or grant a six foot

right-of-way or easement therefor (a) over any part of the Common Properties, and (b) bordering any lot line.

## Section 2. Land Use and Building Type.

- a. Lots that are located in that part of this subdivision designated as "Conventional Residential," or "Premiere Residential," shall contain only one single dwelling not to exceed two stories or thirty (30) feet in height, which is measured from the finished first floor grade to the highest point of the roof of the structure. Chimney heights may exceed said limitation if approved by the Architectural Control Committee. In addition to being below the maximum height limitations as set forth above, structures must be proportionate to surrounding structures, and any detached garage must be proportionate in size and height to the house itself, which in no event shall exceed the height of the principal structure, as determined by the sole discretion of the Board of Directors or its designee). All primary structures are required to be "build on site." No modular structures or mobile homes shall be allowed. Each structure shall include an appropriate two-car enclosed garage and pave driveway constructed as per plans and specifications submitted to and approved by the Architectural Control Committee. Sodding is required for the front and side of all lots. A sprinkler system is required for the full front and sides of property to the street's edge. "Natural" landscaping may be permitted for back yards, however, if the lot is cleared, it must be landscaped with sod and trees in accordance with an approved landscape drawing, and a sprinkler system is required for all sodded areas.

In reviewing building plans, the Architectural Committee shall take into account the natural landscaping, such as trees and shrubs, and encourage the Owner to incorporate them into the landscaping plan for the Lot. No trees of four (4) or more inches in diameter at two (2) feet above natural grade shall be cut or removed without approval of the Architectural Committee.

In addition, structures built on "Premier Residential" lots shall have exterior construction of brick or stucco. No other exterior building materials are approved for these lots. Other building materials may be used for soffits or trim if approved by the Architectural Committee.

- b. Lots that are located in that part of this subdivision designated as "Commercial" shall contain those commercial structures, or multi-family residential structures, which are

compatible with the residential subdivision. Only those commercial ventures, trades or businesses will be permitted which are compatible with and not noxious or offensive to a residential subdivision.

c. Attached hereto as Exhibit "C" is a schedule designating the lots which are subject to the particular use set forth in this Section 2 and said schedule is by reference hereto expressly made a part hereof and the applicable provisions of this Section 2 shall be binding upon the particular lot as designated in said Schedule.

Section 3. Set Backs. Residences must be set back to a minimum of 35 feet from the front lot line, a minimum of 20 feet from the rear lot line and no structures shall be located less than 10 feet or 10% of the width of the lot, whichever is less, from the interior side lot lines. Set backs for corner lots shall be a minimum of 35 feet from the side lot line which faces the street. Front set backs for Hidden Creek Estates and Palmetto Ridge must be set to a minimum of 25 feet from the front lot line.

Section 4. Size of Lots and Dwellings. No Conventional Residential or Premier Residential lot shall contain less than 20,000 square feet other than those located in Palmetto Ridge and Hidden Creek Estates. This restriction does not apply to any additional property added to Holley by the Sea by the Subdivider following the adoption of this amendment. No residence on any Conventional Residential lot shall contain less than 1,400 square feet of livable floor area in one-story homes, exclusive of porches, garages, carports, etc. No residence on any Premier Residential lot shall contain less than 1,800 square feet of livable floor area in one-story homes, exclusive of porches, garages, carports, etc. No residence in Woodmont Estates shall contain less than 1,600 square feet of livable floor area in one-story homes, exclusive of porches, garages, carports, etc. No residence in Palmetto Ridge shall contain less than 1,400 square feet of livable floor area in one-story homes, exclusive of porches, garages, carports, etc. Premier, Woodmont Estates and Palmetto Ridge are described in the covenants.

Section 5. Maintenance of Lots and Improvements. The Owner shall be responsible for and shall maintain and keep in good condition the lot and all improvements thereon. In the event of the failure of the Owner to maintain the lot and/or the improvements thereon in good condition, the Association may make such repairs and perform such maintenance as may be necessary for the general benefit of the remaining owners. The cost thereof shall be assessed against the Owner, and such assessment shall be enforced as other liens herein provided for.

Section 6. Re-Subdivision. No lot or parcel, except those lots or parcel designated as Commercial lots in Exhibit C of the Declaration, shall be re-subdivided into smaller lots nor conveyed or encumbered in less than the full original dimensions of such lot or parcel as shown on the plat of HOLLEY BY THE SEA, provided, however, that a lot may be enlarged by adding to it portions of an adjoining lot or lots.

Section 7. Individual Sewage Disposal and Water Systems. No individual sewage disposal and/or water supply system shall be permitted on any lot unless such system is

designed, located, constructed, equipped and maintained in accordance with the requirement, standards and recommendations of the Architectural Control Board, the appropriate Water and/or Sewer District, the Santa Rosa Health Department, or other applicable governmental authorities.

Section 8. Connection to Sewage and Water System. All buildings or structures to be inhabited or requiring water and/or sewage disposal shall connect with central water and/or sewage disposal utilities within ninety (90) days after being made available, at Owner's expense. However, wells may be maintained for outside use, including watering of lawns and swimming pools, but subject to approval of duly constituted public health authorities.

Section 9. Temporary Structures. No shed, tent, trailer, basement, shack, garage or temporary building shall be erected, maintained or used on any lot or portion thereof; provided, however, that said temporary buildings for use incidental to the initial construction of improvements and structures permitted thereon may be constructed and maintained, but said temporary buildings shall be promptly removed upon the completion of such construction work, but in any event within one year from the date of construction of such temporary structure.

Section 10. No camper, self-propelled mobile home, trailer, boat, any vehicle that has commercial signs, advertising, or commercial equipment visible, or any vehicle which is used or intended for use primarily to haul or carry material and/or equipment shall be stored or parked on any residential lot or portion thereof unless the same is enclosed in a permanent structure or a special permit has been issued to the owner by the Architectural Control Committee. Nor shall any such camper, self-propelled mobile home, trailer, boat, any vehicle that has commercial signs, advertising, or commercial equipment visible, or any vehicle which is used or intended for use primarily to haul or carry material and/or equipment be parked on any public streets or on open space within the property subject to this Declaration or any Supplemental Declarations, known as Holley by the Sea.

Section 11. Garbage and refuse disposal. No lot shall be used or maintained as a dumping ground for rubbish. Trash garbage or other waste shall not be kept except in sanitary containers concealed from public view. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 12. Multiple Lots. Should more than one lot, as shown on the Plat of HOLLEY BY THE SEA, be used as a single building site, these restrictions shall apply as though the entire building site were one lot.

Section 13. Pets and Signs. No animals other than common accepted domestic pets shall be kept on any lot. Domestic pets shall not include horses, and the number of pets permitted shall be reasonable. No signs of any kind shall be displayed on any residential lot unless the form and size of such signs be first approved by the Subdivider.

Section 14. Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor wells for the production of, or from which there may be produced, oil or gas shall be dug or operated upon said premises, nor shall any machinery, appliance, or structure ever be placed, operated or maintained thereon in connection therewith. Nor shall any mineral excavating, or shafts, or machinery used incident thereto be permitted upon or in any lot. No derrick or other structure intended for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Owners, their heirs, administrators, successors and assigns agree that these covenants shall be deemed to be and are construed as express conditions subsequent upon which the conveyance is made; if the said owners, their heirs, successors and assigns shall neglect or fail to perform and to comply strictly with this restriction, then such owners, their heirs, administrator, successors and assigns shall not derive there from any monetary benefits obtained as a result of such oil and mining operations and all such monetary benefits shall inure to the benefit of the Association. It is the intention of this recital to clearly establish that if the owners, their heirs, administrators, successors, and assigns ever conduct or permit to be conducted directly or indirectly, any oil drilling, oil development operation, oil refining, quarrying, or mining operation of any kind in connection with their interest in and to oil, gas and mineral rights which forms a part of their conveyance either by lease, assignment, conveyance or other, then and in that event any and all monetary gain derived or which might be derived by any party, (including but not limited to the Lessor and Lessee) from such lease, assignment, conveyance or other shall pass to the Association and not to the Owners, their heirs, administrators, successors and assigns to the full extent of the interest of the Owners as if no lease, assignment, conveyance or other have been made.

The same shall apply to Common Properties. These restrictions are in keeping with the general purpose of these Restrictive Covenants to insure the use of the property for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the property, to maintain the desired tone of the community, and thereby securing to each site owner the full benefit and use of his home with no greater restrictions imposed upon him than are necessary to insure the same advantage to the site owners.

Section 15. Nuisances. Nothing shall be done and no conditions shall be allowed to continue which may be or become a nuisance or is in violation of any of these restrictions. All vacant lots shall be kept free of accumulations of brush, trash, or other material. After 14 days notice to the owner, the Association reserves the right of entry on vacant lots for the purpose of clearing away any such violation, assessing the cost thereof against the Owner.

The Subdivider, as Owner, need not comply with this provision until such time as the Common Properties have been deeded to the Association and all construction work, including roads and drainage, have been completed.

However, this Section 15 shall apply to any lot once said lot has been sold to an Owner, i.e. other than the Subdivider.

Section 16. Boats. No boats shall be anchored off shore in any lake or canal and when not in use shall be moved as closely adjacent to the bank as safety allows, to the end that navigation of the waterways will not be impeded. It is distinctly understood that the use of the canal for navigation or anchorage is to be at the risk of the owner of the vessel and the Association shall not be liable for damages or injury resulting from submerged object, collision, or otherwise.

Section 17. Filling or Dredging. No filling or dredging shall be done beyond any lot line without the express written approval of the Association nor shall any cutting of boat slips or other similar excavating within the lot line be done without said approval.

Section 18. Additional Modifications, Restrictions and Amendments. The Owner's Association reserves the right to modify these restrictions, or to add additional restrictive pursuant to Article VIII. In such event, such modifications shall become effective upon recording the real property records of Santa Rosa.

Section 19. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by and bind the Association and the Owners and the Subdivider and their respective legal representatives, heirs, successors, and assigns, for a term of twenty years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless this Declaration is amended, pursuant to Article VIII hereof, to provide otherwise.

Section 20. Notices. Any notice required to be sent to any Member or Owner under the provisions of the Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 21. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner or Subdivider to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

The prevailing party in any action to enforce any covenants or restrictions contained in this Declaration, or any action with respect to the Articles of Incorporation, By-Laws or Rules and Regulations of the Association, shall be entitled to recover from the losing party or parties all costs and paralegal and attorneys' fees incurred in connection therewith.

Section 22. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 23. Liability of Subdivider. The Subdivider shall have no liability for any act or failure to act of the Association, the relationship between the Association and the Subdivider being conclusively deemed to be that of independent contractors and not that of principal and agent, partnership or joint venture. In addition, the Subdivider shall have no liability or obligation under this Declaration whether to the Association, Members, Owners or otherwise except only for such liabilities or obligations, if any, as Subdivider may expressly have under specific provisions of this Declaration.

Section 24. Special Provisions Regarding the Hidden Creek Estates Property. The provisions of Section 1 through 17, inclusive as contained in this Article VII, as these provisions have heretofore been amended and as these provisions may in the future be amended, shall not in any way apply to the Hidden Creek Estates Property, as same may be added to from time to time. The Hidden Creek Estates Property, as may be added to from time to time pursuant to the Hidden Creek Estates Declaration. shall be held, transferred, sold, conveyed and occupied subject to the Hidden Creek Estates Declaration, Articles, By-Laws and Rules and Regulations of the Hidden Creek Estates Property Owners Association, Inc., as amended from time to time, and also pursuant to this Declaration as is detailed in this Declaration.

Section 25. Special Provisions Regarding Woodmont Estates. The square footage requirement shall be 1,600 feet minimum square footage. All residences in Woodmont Estates shall have brick or stucco exterior surfaces on the front.

Section 26. No radio towers, satellite receivers, aircraft, recreational vehicles, jet skies, engine hoists or other objects that, in the good faith judgement of the Association are incompatible with the Holley by the Sea development, shall be located in the front or side yards, or otherwise located so that they are visible from any street within the development.

## ARTICLE VIII

### AMENDMENT TO THE DECLARATION

Except as elsewhere provided otherwise, this Declaration may be amended in the following manner:

(a) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of the Owners' meeting at which a proposed amendment is to be considered by the Owners.

(b) Resolution of Adoption. A resolution adopting a proposed amendment must be approved by not less than a majority of the full Board of Directors, and by not less than a majority of the voting interests of the entire membership of the Association at a duly called Owners' meeting .

Owners not present in person or by proxy at the meeting considering the Amendment may express their approval or disapproval in writing, provided such approval is delivered to the Secretary within the time required by the By-Laws for the delivery of a Proxy for Owners' Meetings. Directors not present at the Board meeting at which the Amendment is considered may express their approval in writing, providing such approval is delivered to the Secretary within the time required by the By-Laws for the delivery of a Proxy for Owners' meetings.

- a. Proviso. Notwithstanding the provisions of Sections (a) and (b) above to the contrary, so long as the Subdivider controls the Board of Directors as provided for in this Declaration, this Declaration may be amended by the vote of the Subdivider alone; and after such control is relinquished, so long as the subdivider owns record legal title to any Lot in HOLLEY BY THE SEA, no Amendment may be made without the written consent of the Subdivider.

## ARTICLE IX

### ENFORCEMENT

In the event an Owner fails to properly maintain the Owner's lot in accordance with this Declaration or fails to otherwise abide by the covenants, restrictions, and provisions of this Declaration, or the articles, by-laws and rules and regulations, as they may be amended from time to time, of the Association, the Association or any Owner shall have the right to institute appropriate judicial proceedings seeking any remedy recognizable at law or in equity, including damage, injunction, or any other form of relief against the Owner. The failure by any party to enforce any covenant, restriction or waiver of such covenant, restriction or provision or of the right of such party to thereafter enforce such covenants, restriction or provision. The prevailing party in any such litigation shall be entitled to all costs thereof including, but not limited to, reasonable attorney fees.

In addition, the Association shall have the right for itself and its employees and agents, to enter upon the Lot and perform the necessary work to enforce compliance with the above provision (by force, if necessary), without having committed a trespass or incurred any other liability to the Owner. The Association shall have the right to levy an assessment against the Owner for the sums necessary to do whatever work is required to put the Owner or Lot in compliance and to collect such assessment from the Owner and have a lien upon the Lot for such assessment.

EXHIBIT A

HOLLEY BY THE SEA, according to the Plat thereof, recorded in Plat Book B, Page 155, of the Public Records of Santa Rosa County, Florida.

AND

FIRST CORRECTED AND AMENDED PLAT OF HOLLEY BY THE SEA, according to the Plat thereof, recorded in Plat Book C, Page 166, of the Public Records of Santa Rosa County, Florida.

AND

SECOND CORRECTED AND AMENDED PLAT OF HOLLEY BY THE SEA, according to the Plat thereof, recorded in Plat Book C, Page 183, of the Public Records of Santa Rosa County, Florida.

AND

HOLLEY BY THE SEA, FIRST ADDITION, LESS & EXCEPT Tracts A, B, C, D, E, F, G and H, according to the Plat thereof, recorded in Plat Book E, Page 15, of the Public Records of Santa Rosa County, Florida.

AND

PALMETTO RIDGE, according to the Plat thereof, recorded in Plat Book E, Page 54, of the Public Records of Santa Rosa County, Florida.

## EXHIBIT B

All the property to be subject to common usage and conveyed to the Association, including but not limited to the following:

Parcel 1: That portion of Section 4, Township 2 South, Range 27 West, Santa Rosa County, Florida, described as follows: Commencing at the Northeasternmost corner of Lot 29, Block 4, Lagniappe Beach Subdivision Addition, Santa Rosa County, Florida, according to plat filed in Plat Book A, at Page 100 of the records of said county; thence North 44 degrees 30' East along the Northwesterly right of way line of State Road No. S399 (100 foot right-of-way), a distance of 982.35 feet to a point of curvature; thence continue a curve to the right, having a radius of 11,509.2 feet, a distance of 337.65 feet to an iron rod for the point of beginning; thence continue North 46 degrees 11' East, 100 feet to an iron rod; thence North 43 degrees 20' West 324.72 feet, more or less, to a point in the waters of East Bay, hereinafter referred to as point "M"; thence beginning again at the point of beginning, thence North 43 degrees 49' West 325.18, more or less, to said waters; thence meandering along the shores of East Bay to aforesaid point "M".

Parcel 2: The West 1,000 feet of the East 1,400 feet of Section 22, lying South of U.S. #98 and the West 1,000 feet of the East 1,400 feet of Section 27, all the above lying and being in Township 2 South, Range 27 West, Santa Rosa County, Florida.

## EXHIBIT C

The following described lots are hereby designated as Commercial lots:

FIRST CORRECTED AND AMENDED PLAT OF HOLLEY BY THE SEA, Plat Book C, page 166

All lots in Block 1- Multi-family residential structures only

All lots in Block 2- Multi-family residential structures only

Lots 1 through 10, inclusive in Block 3, Multi-family residential structures only

Lot 1, Block 14- Multi-family residential structures only

Lot 1, Block 109A- Multi-family residential structures or commercial structures

Lot 2 through 12, inclusive, Block 109- Multi-family residential structures or commercial structures

Lots 15 through 18, inclusive, Block 110- Multi-family residential structures or commercial structures

The following described lots are hereby designated as Premiere Residential lots:

HOLLEY BY THE SEA, Plat Book B, Page 155

Block Lots

118 42-48, 61, 67-73

118A 1-6

118B 1-17

119 1-25

120 1-30

122 1-6, 8-12

123 26-29

124 8

125 1-11, 13-35

126 4-8

127 12-22

129 1-10

143 13-24

144 1-10

145 1-4, 7-10

146 3-18, 26-36

147 1-37

148 2-33

149 1-8

150 1-5

151 6-9

152 54, 55, 61-86

EXHIBIT C CONTINUED

HOLLEY BY THE SEA, Plat Book B, Page 155

Block Lots

153 1-4

154 1-13

155 1-6, 29-37

156 1-10

160 1-5, 7-10

161 1, 6, 7, 8

162 2-13, 20-24, 27-31

164 2-25

165 1-14, 17, 18, 19

166 2-19

167 2-32

168 1-29

169 4-13

197 1-28

202 1-28

203 9-20, 22-25

208 14-20, 28

SECOND CORRECTED AND AMENDED PLAT OF HOLLEY BY THE SEA, Plat  
Book C, Page 183

Block Lots

2 1-8

3 1-9

4 1, 2

5 1, 2

6 1-4

7 1

8 1

11 4-11

27 16-36

28 1-5

The following described lots are hereby designated as constituting Woodmont Estates:

HOLLEY BY THE SEA, Plat Book B, Page 155

Block Lots

206 1-11

207 1-15

209 9, 14, 16, 17, 36-47, 51-54

210 1-4, 14-16

211 1-6, 11-16

212 1-22

213 1-10, 12-22

214 8, 9, 34, 35, 41-44

215 9, 10

216 1-3, 18-22

217 1, 2, 5-15, 20-22

218 1-4, 7-14, 19, 23, 24, 26

219 9

220 1, 35, 36

221 11-13

SECOND CORRECTED AND AMENDED PLAT OF HOLLEY BY THE SEA, Plat  
Book C, Page 183

Block Lots

18 1-24

19 1-16

20 1-16

21 1-25

22 1-3

23 1-18

24 1-6

25 1-21

All remaining lots in HOLLEY BY THE SEA subject to this Declaration which are not otherwise designated as Commercial lots, Premiere Residential lots, Woodmont Estates, Palmetto Ridge, or The Hidden Creek Estates Property are hereby designated as Conventional Residential lots.

BY-LAWS

OF

HOLLEY BY THE SEA  
IMPROVEMENT ASSOCIATION, INC.

(a corporation not for profit under the laws of the State of Florida)

ARTICLE I

NAME

This Association shall be known as HOLLEY BY THE SEA IMPROVEMENT ASSOCIATION, INC., a not for profit Florida corporation, hereinafter referred to as the "Association".

ARTICLE II

MEMBERSHIP MEETINGS

Section 1. Annual Meeting. The Annual Meeting of the membership of this Association shall be held at the office of the Association located at 6845 Navarre Parkway, Navarre, Florida. The Annual Meeting shall be held at such location at 1:30 p.m. on the third Saturday of July each year. The meeting may be held at such other time and place as may be designated by the Board of Directors.

Section 2. Special Meeting. Special meetings may be held at the call of the President or by written request of a majority of the members of the Board of Directors, or of the Association.

Section 3. Notice. At least 30 days' notice, in writing, shall be required to hold the annual meeting referred to in Section 1. Fifteen (15) days' notice, in writing, shall be required to hold a special meeting of the Association. Written notices shall be mailed to each member of the Association at his usual place of residence, and shall contain the date, place, time and purpose of the meeting.

Section 4. Order of Business. Order of business at annual meeting:

- A. Roll call and certifying of proxies
- B. Reading of notice of meeting
- C. Reading of minutes of previous meeting
- D. Report of President
- E. Report of Treasurer
- F. Report of Secretary
- G. Reports of committees
- H. Election of Directors

- I. Transaction of other business mentioned in the notice
- J. Adjournment

Section 5. Voting. Every member of the Association, in good standing, shall have the right to and be entitled to vote as the same is specifically set forth in Article 3 of the Declaration of Protective Property Rights and Restrictions of Holley By The Sea and Holley By The Sea Improvement Association, Inc., which said instrument is filed of record in Official Records Book 246, at Page 463, of the Public Records of Santa Rosa County, Florida. All such persons qualified to vote as therein provided, shall have the right and be entitled to vote upon every proposal properly submitted to a vote in any meeting of the Association. Voting may be by actual presence of the member of the Association at such meeting, or by written proxy. The proxy may be made by any person entitled to vote and shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of the meeting.

Section 6. Quorum. There shall be no requirement of a quorum for the conduct of business at a duly called meeting of the members. Every act performed or decision made by a majority of votes cast by members present in person or by proxy at a duly called meeting of members shall constitute the act or decision of the Association.

### ARTICLE III

#### BOARD OF DIRECTORS

Section 1. Number of Term of Directors. The business, property, and affairs of this Association shall be managed by a Board of Directors composed of five (5) persons. The number of Directors may be changed from time to time but shall never be less than three (3). Each Director so elected shall hold office for the term for which he is elected and until his successor is elected and qualified.

Section 2. Classification of Directors. Directors shall be elected by the members for two-year terms, with no Director to serve more than two years during any five-year period. Notwithstanding this two-year limitation during any five-year period, should a Director be appointed to serve the remainder of an unexpired term of six months or less, such person shall be entitled to be elected to a two-year term.

Special Provision for the Initial Election of the Board by Members versus appointment by MAGNA. During the Initial Election of the Board by members, scheduled for July of 1998, the three persons receiving the most votes shall serve two-year terms. The remaining two directors shall serve one-year terms. In the event of a tie, the directors serving two-year terms shall be determined by majority vote of a quorum of the Board of Directors. After this initial election by members, all future directors shall be elected for two-year terms.

Section 3. Qualifications. Directors shall be members of the Association and 18 years of age or older.

Section 4. Powers. The Board of Directors shall have the power to:

(a) Adopt and publish rules and regulations governing the use of the common areas and facilities including the personal conduct of the members and their guests thereon; and to establish penalties for infractions of such rules and regulations;

(b) Suspend the voting rights and right to use the recreational facilities of any member during any period in which such member is in default in the payment of any assessment levied by the Association, including without limitation annual assessments, special assessments, or assessments levied by the Association for correction of violations of architectural guidelines or other assessments. Such rights may also be suspended after notice and hearing before the Board of Directors with the length of the suspension being determined at the discretion of the Board for infractions of published rules and regulations other than non-payment of assessment levied by the Association. Suspensions shall be indefinite for continuing violations, including without limitation non-payment of any fee or assessment levied by the Association.

(c) Exercise on behalf of the Association all powers, duties, and authority vested in or delegated to the Association and not specifically reserved to the membership by the Declaration, Articles of Incorporation, or by other provisions of these Bylaws;

(d) Declare the office of a member of the Board of Directors to be vacant in the event that such member is absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) Employ a manager, independent contractors, and such other employees as they deem necessary, and to prescribe their duties.

- a. The Board of Directors shall, at least 45 days prior to an election of Directors, nominate a number of candidates for positions on the Board of Directors equal to or greater than the number of positions to be filled. Potential nominees shall be required to fill out information sheets, the content of which are to be determined by the Board. Persons nominated shall be listed on a "Proxy" ballot to be mailed out to members, using the addresses that are part of the Associations records, at least 45 days prior to the election. Proxy ballots are to be returned to the Association no later than 10 days prior to the election to be considered.

The Board is authorized to adopt procedures for reviewing these ballots, as well as the form of the proxy itself, and to make such changes as it deems consistent with the goal of providing for, reviewing, verifying and counting proxy ballots.

Written proxies shall, in addition to containing the typed-in names of persons nominated by the Board, provide for five "write-in" spaces allowing members to elect persons who were not nominated by the Board so long, as such persons otherwise qualify for the position. In addition to other qualifications, a "write-in" candidate must deliver to the Association's Secretary, at least ten (10) business days prior to the annual meeting at which the election occurs, a letter signed by the candidate stating that the candidate is willing to serve on the Board of Directors if elected.

The Secretary of the Association shall review the written Proxies and shall reject any Proxy that:

1. Attempt to vote for more candidates than are required to fill the open positions.
2. Are not signed by the person authorized to vote by virtue of ownership of a particular lot. (i.e., if husband and wife own the lot jointly, they must cast their vote jointly.)
3. Are signed by a lot owners or owners who are 90 days or more past due on any Association assessment and have had their membership rights suspended as a result of this delinquency.
4. Are not received at least 10 days prior to annual meeting
5. Contain the name or names of a person or persons who are not eligible to serve on the Board of Directors. In this instance, the proxy shall be rejected only as to the ineligible person or persons and, if otherwise valid, votes for eligible persons shall be counted.

All written proxies shall be available for review as a business record of the Association at the meeting at which the election of Directors takes place; and challenges may be made in writing to the Secretary of the Association, and delivered to said Secretary within twenty four (24) hours of the election. Any challenge to the validity of the Proxy shall be decided upon by the outgoing Board of Directors, and the Board's decision regarding such challenge shall be final.

Section 5. Duties. It shall be the duty of the Board of Directors to:

(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 each annual meeting;

(b) Approve the annual budget for the management and maintenance of the common area setting forth an itemized statement of revenues and expenditures and fixing the amount of the annual assessment against each lot on or before October 1st preceding each annual assessment period;

(c) Send written notice of each assessment to every owner subject thereto on or before November 1 before each annual assessment period;

(d) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date, or to bring an action at law against the owner personally obligated to pay the same;

(e) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any assessment has been paid. A statement in a certificate to the effect that an assessment has been paid shall constitute conclusive evidence of such payment. The Board may impose a reasonable charge for the issuance of these certificates;

(f) Procure and maintain adequate liability and hazard insurance on all property owned by the Association;

(g) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(h) Cause the common area to be maintained.

Section 6. Time of Meeting. Annual meetings of the Board of Directors shall be held on the third Saturday of July of each year and at such times thereafter as the Board of Directors may fix and at other times upon the call of the President, or by a majority of the Directors. Notice of each annual meeting shall be given by the Secretary to each Director not less than fifteen (15) days before the meeting, unless each Director shall waive notice thereof, before, at or after the meeting. Notice shall contain an enumeration of the items of business to be transacted at such meetings.

Section 7. Vacancies. Vacancies in the Board of Directors, other than as provided in Section 9.d. of this Article, shall be filled by election by the remaining Directors. Each person so elected to fill a vacancy shall remain a Director until his successor has been elected by a vote of the membership at the next annual meeting.

Section 8. Election of Officers. The Board of Directors, at the annual meeting, shall elect a President, one or more Vice Presidents, a Secretary and a Treasurer. The Board of Directors shall have the power to appoint such other officers and employees as the Board may deem necessary for the transaction of the business of the Association. The Board shall have the power to fill any vacancy in any office, occurring for any reason whatsoever. Any member of the Board may serve as an officer.

Section 9. Election of Directors. The election of Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual members' meeting commencing with the first annual meeting of the Association.

(b) A nominating committee of not less than three (3) and no more than five (5) members shall be designated not less than thirty (30) days prior to the annual meeting of the

Association. This nominating committee shall be charged with the duty of nominating one person for each Director sought to be elected, provided, however, that additional nominations shall be received from the floor prior to the actual election held in the annual meeting.

(c) The election shall be ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

(d) Any Director may be removed by concurrence of two-thirds (2/3) of the votes of the membership present at a special meeting of the members called for the purpose. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

(e) The term of each Director's service shall extend until the next annual meeting of the members and subsequently until his successor has been elected and qualified or until he is removed in the manner elsewhere provided.

Section 10. Regular Meetings. No notice is required for regular meetings held on the date and time set by the Board of Directors for regular meetings.

Section 11. Special Meetings. The special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third (1/3) of the Directors. Board members shall be given written notice of special meetings either by first-class mail postmarked at least four business days prior to the meeting, or within two working days of such special meeting if notice is hand delivered, or transmitted by FACSIMILE or other means of electronic transmission recognized by the Florida Supreme Court to be valid service of court papers other than the initial complaint.

Section 12. Waiver of Notice. Any Director may waive notice of a meeting before or after the meeting and such waiver shall be deemed equivalent to the giving of notice.

Section 13. Quorum. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority of those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except when approval by a greater number of Directors is required by the Declaration of Protective Property Rights, Articles of Incorporation or these Bylaws.

Section 14. Adjourned Meetings. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. No further notice need be given of an adjourned meeting.

Section 15. Presiding Office. The presiding officer of Directors' meetings shall be the Chairman of the Board if such an officer has been elected; and if not, the President shall

preside. In the absence of the presiding officer the Directors present shall designate one of their number to preside.

Section 16. Agenda. The order of business at Directors' meetings shall be:

- a. Call of roll
- b. Proof of due notice of meeting
- c. Reading and disposal of any unapproved minutes
- d. Reports of officers and committees
- e. Election of officers
- f. Unfinished business
- g. New business
- h. Adjournment

Section 17. Directors' Fees. The Directors shall not be entitled to any fees of compensation for their services as Directors. They may receive compensation for any services which they perform for the Association outside the scope of their position as a Director of the Association.

Section 18. Removal of Officers. Any officer may be removed by the Board of Directors whenever, in the judgment of the Board, the best interests of the Association will be served thereby, by a two-thirds (2/3) vote of the Board of Directors.

Section 19. Annual Reports. The President and Treasurer shall present their respective reports of the operation of the Association for the preceding year, at the annual meeting of the membership.

## ARTICLE IV

### OFFICERS

Section 1. Officers. The executive officers of the Association shall be a President, who shall be a Director, a Vice President, a Treasurer and a Secretary all of whom shall be elected annually by the Board of Directors, and such Assistant Secretaries and Assistant Treasurers as the Board of Directors may from time to time determine upon. Any person may hold two (2) or more offices except that the same person shall not hold the office of President and Vice President, provided, however, that the President shall not also be the Secretary of an Assistant Secretary. Any officer may be removed peremptorily by a vote of two-thirds (2/3) of the Directors present at any duly constituted meeting.

Section 2. President. The President shall be the chief executive officer of the Association. He shall have all the powers and duties usually vested in the office of president of an

association, including but not limited to the power to appoint committees from among the members from time to time, as he, in his discretion, may determine appropriate to assist in the conduct of the affairs of the Association.

Section 3. Vice President. The Vice President on the absence or disability of the President shall exercise the powers and perform the duties of the President. He shall also assist the President generally and exercise such other powers and perform such other duties as shall be prescribed by the Directors.

Section 4. Secretary. The Secretary shall keep the minutes of all proceedings of the Directors and the members. He shall attend to the giving and serving of all notices to the members and Directors and other notices required by law. He shall have custody of the seal of the Association and affix it to instruments requiring a seal when duly signed. He shall keep record of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of secretary of an association and as may be required by the Directors or the President. The Assistant Secretary, if any, shall perform the duties of the Secretary when the Secretary is absent, and shall otherwise assist the Secretary.

Section 5. Treasurer. The Treasurer shall have custody of all property of the Association, including funds, securities and evidences of indebtedness. He shall keep the books of the Association in accordance with good accounting practices; and he shall perform all other duties incident to the office of Treasurer. The Assistant Treasurer, if any, shall perform the duties of the Treasurer when Treasurer is absent, and shall otherwise assist the Treasurer.

Section 6. Compensation. No compensation shall be paid to any officer of the Association except with the approval of a majority of the membership, reflected by a vote taken at a duly constituted membership meeting. The compensation contemplated herein is services rendered by him in the office which he is holding and to which he has been elected. Nothing herein shall prevent the said officer from obtaining and being compensated for services rendered outside the scope of this office, and on behalf of the Association.

## ARTICLE V

### ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay the Association annual and special assessments which secured by a continuing lien on the property against which such assessments are made. An assessments not paid when due are considered delinquent. If an assessment is not paid within thirty (30) days after the due date, the assessment bears interest from the date of delinquency at the rate of eighteen (18%) per annum or the highest interest rate allowed by law, and the Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against his property. Interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of any assessment due.

No owner may waive or otherwise escape liability for assessments by nonuse of the common area or abandonment of his lot.

## ARTICLE VI

### COMMITTEES

Section 1. Nominating Committee. The President shall appoint a chairman of the nominating committee at the regular meeting of the Board of Directors held in July of each year. The Board of Directors shall elect two (2) additional members for this committee and report of a slate of officers for the ensuing year shall be made at the annual meeting. Additional nominations for officers may be made from the floor.

Section 2. Architectural Control Committee. The members of the Board of Directors shall constitute the architectural control committee or they may appoint a three (3) member committee. The duties of this committee are set out in Article VI of the Declaration of Protective Property Rights and Restrictions filed on Official Records Books 246, at page 463, of the Public Records of Santa Rosa County.

## ARTICLE VII

### FISCAL YEAR

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

## ARTICLE VIII

### PARLIAMENTARY RULES

"Robert's Rules of Order" (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration of Protective Property Rights, Articles of Incorporation or these Bylaws.

## ARTICLE IX

## AMENDMENTS

A resolution for the adoption of a proposed amendment of these Bylaws may be proposed by either the Board of Directors or the Association or by the members of the Association. Members may propose such an amendment by instrument in writing directed to the President or Secretary of the Board signed by not less than ten (10%) percent of the membership. Amendments may be proposed by the Board of Directors by action of a majority of the Board at any regularly constituted meeting thereof. Upon an amendment being proposed as herein provided for, the President or, in the event of his refusal or failure to act, the Board of Directors shall call a meeting of the membership to be held within sixty (60) days for the purpose of considering said amendment. Directors and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing such approval is delivered to the Secretary at or prior to the meeting. Except as elsewhere provided, such approval must be either by:

(a) Not less than 66-2/3% of the entire membership of the Board of Directors and by not less than 51% of the votes of the entire membership of the Association; or

(b) Not less than 66-2/3% of the votes of the entire membership of the Association.

The procedure set forth above for amending these Bylaws shall also apply and pertain to any amendments sought to be made of the Declaration of Protective Property Rights and Restrictions as provided in Article VII, Section 18 thereof, and shall be cumulative of any procedure provided therein.

## ARTICLE X

### CONFLICT OF PROVISIONS

Whenever the provisions of these Bylaws, the Articles of Incorporation or the Declaration shall conflict, then the Declaration shall prevail, and in the event of a conflict between the Bylaws and the Articles, then the Articles shall prevail